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1                               A bill to be entitled

2       An act relating to property and casualty insurance;

3       amending s. 215.555, F.S.; amending a definition;

4       specifying the calculation period for dollar growth

5       expansion of fund capacity; deleting a priority for fund

6       reimbursement; providing for a rapid cash buildup in the

7       Florida Hurricane Catastrophe Fund premium; extending the

8       time period medical malpractice insurance premiums are

9       exempt from emergency assessments; creating s. 215.558,

10      F.S.; establishing the Florida Hurricane Damage Prevention

11      Endowment; providing purpose and intent; providing

12      definitions; providing for administration and financial

13      incentives for residential hurricane damage prevention

14      activities; creating an advisory council; providing an

15      appropriation; creating s. 215.5585, F.S.; providing for

16      wind certification and hurricane mitigation inspections;

17      establishing an inspection program within the Department

18      of Community Affairs; specifying the components of the

19      program; providing for an appropriation; amending s.

20      626.918, F.S.; providing that certain letters of credit

21      issued or confirmed by a qualified United States financial

22      institution may be used for certain purposes; providing a

23      definition; amending s. 627.062, F.S.; providing for

24      exceptions to regulatory review of residential property

25      insurance rate filings; requiring annual reports regarding

26      the impact of flexible rate regulation; amending s.

27      627.0628, F.S.; specifying the nature of access to

28      hurricane loss projection data used by insurers in rate

29      filings; limiting the type of questions raised by such

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30        access; amending s. 627.06281, F.S.; providing a  
31        restriction on use of the public model for hurricane loss  
32        projection by the Office of Insurance Regulation; amending  
33        s. 627.351, F.S.; providing additional legislative intent  
34        regarding the Citizens Property Insurance Corporation;  
35        specifying the existing three separate accounts of the  
36        corporation as providing coverage only for homestead  
37        property; providing a definition; providing for an  
38        additional separate account for nonhomestead property;  
39        requiring an annual affidavit by a property owner in order  
40        to be eligible for the nonhomestead account; providing an  
41        exemption from the consent to rate policy limit for  
42        authorized insurers providing coverage in the nonhomestead  
43        account; requiring separate maintenance of revenues,  
44        assets, liabilities, losses, and expenses attributable to  
45        the nonhomestead account; specifying recourse of  
46        creditors' claims to such accounts; requiring authorized  
47        insurers to perform servicing functions on policies for  
48        the peril of wind only; providing coverage and rate filing  
49        procedures; providing for claim adjusting; providing for  
50        fees; providing for limitation on liability; specifying  
51        how each insurer's share of the assessment is calculated;  
52        providing for a reduction in the regular assessment by the  
53        Citizens policyholder surcharge; allowing the corporation  
54        to pledge proceeds of the Citizens policyholder surcharge  
55        as a source of revenue to secure bonds, other  
56        indebtedness, or lines of credit; providing for deficit  
57        assessments against nonhomestead account policyholders  
58        under certain circumstances; authorizing the board of

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governors of the corporation to make loans from the homestead accounts to the nonhomestead account under certain circumstances; providing ineligibility for coverage by a surplus lines insurer or authorized insurer for a nonhomestead account policyholder that does not pay a deficit assessment; requiring the corporation to continue voluntary writing credits that were available on January 1, 2006 for writing coverage in the High Risk Account; providing for ineligibility of coverage for specified value dwellings; providing for ineligibility of coverage for specified value of combined dwelling and contents coverage; specifying eligibility requirements for nonhomestead property; requiring the corporation use its best effort to purchase catastrophe reinsurance for the homestead accounts; providing for levy of a Citizens policyholder surcharge by the corporation; providing for determination of Citizens policyholder surcharge; providing additional requirements of the plan of operation of the corporation; providing for an inclusion of a residual market risk load in rates; authorizing arbitration of certain high risk account filings; providing additional legislative intent relating to rate adequacy in the residual market; specifying criteria for determining inadequacy of certain rates; providing a criterion for calculating reduction or increase in probable maximum loss; requiring the corporation to develop a notice to policyholders regarding rates; specifying requirements and amounts for bonuses; deleting eligibility for Florida Windstorm Underwriting Association

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88 policies; delaying the reduction of boundaries of the  
89 high-risk area eligible for wind-only coverages; providing  
90 for application of provisions relating to homestead and  
91 nonhomestead accounts to certain policies; requiring  
92 specified employees of corporation to comply with the Code  
93 of Ethics; requiring the corporation to notify the  
94 Division of Insurance Fraud within a specified period in  
95 cases of insurance fraud; amending s. 627.4035, F.S.;  
96 providing for waiver of a written authorization  
97 requirement regarding electronic payment of claims;  
98 amending s. 627.7011, F.S.; specifying requirements for  
99 law and ordinance coverage; modifying insurers obligations  
100 to pay replacement costs; requiring insurers to issue  
101 separate checks to policyholders for living expenses,  
102 contents, and casualty proceeds; requiring checks for  
103 living expenses and contents to be issued to policyholder;  
104 amending s. 627.7019, F.S.; mandating certain standardized  
105 requirements applicable to insurers after natural  
106 disasters; providing timeframes for issuance of emergency  
107 orders; prohibiting emergency rule making in specified  
108 situations; amending s. 631.57, F.S.; revising  
109 requirements and limitations for obligations of the  
110 Florida Insurance Guaranty Association for covered claims;  
111 authorizing the association to contract with counties and  
112 municipalities to issue revenue bonds for certain  
113 purposes; authorizing the association to levy an emergency  
114 assessment to secure the bonds; limiting the emergency  
115 assessment; providing for use of the emergency assessment;  
116 creating s. 631.695, F.S.; providing legislative findings

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and purposes; providing for issuance of revenue bonds through counties and municipalities to fund assistance programs for paying covered claims for hurricane damage; providing procedures, requirements, and limitations for counties, municipalities, and the Florida Insurance Guaranty Association, Inc., relating to issuance and validation of such bonds; providing for payments on and retirement of such bonds from certain assessments; prohibiting pledging the funds, credit, property, and taxing power of the state, counties, and municipalities for payment of bonds; specifying authorized uses of bond proceeds; limiting the term of bonds; specifying a state covenant to protect bondholders from adverse actions relating to such bonds; specifying exemptions for bonds, notes, and other obligations of counties and municipalities from certain taxes or assessments on property and revenues; authorizing counties and municipalities to create a legal entity to exercise certain powers; requiring the association to issue an annual report on the status of certain uses of bond proceeds; providing report requirements; requiring the association to provide a copy of the report to the Legislature and Chief Financial Officer; prohibiting repeal of certain provisions relating to certain bonds under certain circumstances; amending s. 817.234, F.S.; providing an additional circumstance that constitutes committing insurance fraud; removing an exemption to the Florida Building Code; creating the Task Force on Hurricane Mitigation and Hurricane Insurance for Mobile

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146 and Manufactured Homes; requiring the Executive Office of  
147 the Governor, the Department of Financial Services, the  
148 Office of Insurance Regulation, the Department of Highway  
149 Safety and Motor Vehicles, and the Department of Community  
150 Affairs to provide administrative support and staff  
151 support; providing membership; providing purpose and  
152 intent; providing for research and hearings on specified  
153 issues; requiring the task force to submit a report of  
154 findings and recommendations to the Governor, the Chief  
155 Financial Officer, the President of the Senate, and the  
156 Speaker of the House of Representatives; providing for  
157 additional activities; providing for expiration of the  
158 task force; requiring the Office of Insurance Regulation  
159 to submit a report to the Legislature relating to property  
160 and casualty insurance; providing report requirements;  
161 providing an effective date.

162  
163 Be It Enacted by the Legislature of the State of Florida:

164  
165 Section 1. Paragraph (d) of subsection (2), paragraphs (c)  
166 and (d) of subsection (4), paragraph (b)~~(a)~~ of subsection (5)~~(2)~~  
167 and paragraph (b) of subsection (6) of section 215.555, Florida  
168 Statutes, is amended to read:

169 (2) DEFINITIONS.--As used in this section:

170 (d) "Losses" means direct incurred losses under covered  
171 policies, which shall include losses for additional living  
172 expenses not to exceed 40 percent of the insured value of a  
173 residential structure or its contents and shall exclude loss  
174 adjustment expenses. "Losses" does not include losses for fair

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rental value, loss of rent, rental income, ~~loss of use,~~ or  
business interruption losses.

215.555 Florida Hurricane Catastrophe Fund.--

(4) REIMBURSEMENT CONTRACTS.--

(c)1. The contract shall also provide that the obligation  
of the board with respect to all contracts covering a particular  
contract year shall not exceed the actual claims-paying capacity  
of the fund up to a limit of \$15 billion for that contract year  
adjusted based upon the reported exposure from the prior contract  
year to reflect the percentage growth in exposure to the fund for  
covered policies since 2003, provided the dollar growth in the  
limit may not increase in any year by an amount greater than the  
dollar growth of the ~~cash~~ balance of the fund as of December 31  
as defined by rule which occurred over the prior calendar year.

2. In May before the start of the upcoming contract year  
and in October during the contract year, the board shall publish  
in the Florida Administrative Weekly a statement of the fund's  
estimated borrowing capacity and the projected balance of the  
fund as of December 31. After the end of each calendar year, the  
board shall notify insurers of the estimated borrowing capacity  
and the balance of the fund as of December 31 to provide insurers  
with data necessary to assist them in determining their retention  
and projected payout from the fund for loss reimbursement  
purposes. In conjunction with the development of the premium  
formula, as provided for in subsection (5), the board shall  
publish factors or multiples that assist insurers in determining  
their retention and projected payout for the next contract year.  
For all regulatory and reinsurance purposes, an insurer may  
calculate its projected payout from the fund as its share of the

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total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

(d)1. For purposes of determining potential liability and to aid in the sound administration of the fund, the contract shall require each insurer to report such insurer's losses from each covered event on an interim basis, as directed by the board. The contract shall require the insurer to report to the board no later than December 31 of each year, and quarterly thereafter, its reimbursable losses from covered events for the year. The contract shall require the board to determine and pay, as soon as practicable after receiving these reports of reimbursable losses, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the board to pay, or the insurer to return, amounts reflecting the most recent calculation of losses.

2. In determining reimbursements pursuant to this subsection, the contract shall provide that the board shall:

~~a. First reimburse insurers writing covered policies, which insurers are in full compliance with this section and have petitioned the Office of Insurance Regulation and qualified as limited apportionment companies under s. 627.351(2)(b)3. The amount of such reimbursement shall be the lesser of \$10 million or an amount equal to 10 times the insurer's reimbursement premium for the current year. The amount of reimbursement paid under this sub-subparagraph may not exceed the full amount of reimbursement promised in the reimbursement contract. This sub-~~



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~~subparagraph does not apply with respect to any contract year in which the year end projected cash balance of the fund, exclusive of any bonding capacity of the fund, exceeds \$2 billion. Only one member of any insurer group may receive reimbursement under this sub-subparagraph.~~

~~a.b.~~ a. Next Pay to each insurer such insurer's projected payout, which is the amount of reimbursement it is owed, up to an amount equal to the insurer's share of the actual premium paid for that contract year, multiplied by the actual claims-paying capacity available for that contract year; provided, entities created pursuant to s. 627.351 shall be further reimbursed in accordance with sub-subparagraph ~~b.e.~~

~~b.e.~~ Thereafter, establish the prorated reimbursement level at the highest level for which any remaining fund balance or bond proceeds are sufficient to reimburse entities created pursuant to s. 627.351 based on reimbursable losses exceeding the amounts payable pursuant to sub-subparagraph ~~a.b.~~ for the current contract year.

(5) REIMBURSEMENT PREMIUMS.--

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each \$1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the board shall consider the coverage elected under paragraph (4) (b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of

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262 coverage provided, relative concentration of risks, ~~a factor~~  
263 ~~providing for more rapid cash buildup in the fund until the fund~~  
264 ~~capacity for a single hurricane season is fully funded,~~ and other  
265 such factors deemed by the board to be appropriate. The formula  
266 may provide for a procedure to determine the premiums to be paid  
267 by new insurers that begin writing covered policies after the  
268 beginning of a contract year, taking into consideration when the  
269 insurer starts writing covered policies, the potential exposure  
270 of the insurer, the potential exposure of the fund, the  
271 administrative costs to the insurer and to the fund, and any  
272 other factors deemed appropriate by the board. The formula shall  
273 include a factor of 25% of the fund's actuarially indicated  
274 premium in order to provide for more rapid cash buildup in the  
275 fund. The formula must be approved by unanimous vote of the  
276 board. The board may, at any time, revise the formula pursuant to  
277 the procedure provided in this paragraph.

278 (6) REVENUE BONDS.--

279 (b) Emergency assessments.--

280 1. If the board determines that the amount of revenue  
281 produced under subsection (5) is insufficient to fund the  
282 obligations, costs, and expenses of the fund and the corporation,  
283 including repayment of revenue bonds and that portion of the debt  
284 service coverage not met by reimbursement premiums, the board  
285 shall direct the Office of Insurance Regulation to levy, by  
286 order, an emergency assessment on direct premiums for all  
287 property and casualty lines of business in this state, including  
288 property and casualty business of surplus lines insurers  
289 regulated under part VIII of chapter 626, but not including any  
290 workers' compensation premiums or medical malpractice premiums.

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As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of future premium collections and is subject to annual adjustments by the board to reflect changes in premiums subject to assessments collected under this subparagraph in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

2. A premium is not subject to an annual assessment under this paragraph in excess of 6 percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this paragraph in excess of 10 percent of premium. An annual assessment under this paragraph shall continue for as long as ~~until~~ the revenue bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund the revenue bonds, unless adequate provision has been made for the payment of the bonds under the documents authorizing issuance of the bonds.

3. With respect to each insurer collecting premiums that are subject to the assessment, the insurer shall collect the assessment at the same time as it collects the premium payment for each policy and shall remit the assessment collected to the

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320 fund or corporation as provided in the order issued by the Office  
321 of Insurance Regulation. The office shall verify the accurate and  
322 timely collection and remittance of emergency assessments and  
323 shall report the information to the board in a form and at a time  
324 specified by the board. Each insurer collecting assessments shall  
325 provide the information with respect to premiums and collections  
326 as may be required by the office to enable the office to monitor  
327 and verify compliance with this paragraph.

328       4. With respect to assessments of surplus lines premiums,  
329 each surplus lines agent shall collect the assessment at the same  
330 time as the agent collects the surplus lines tax required by s.  
331 626.932, and the surplus lines agent shall remit the assessment  
332 to the Florida Surplus Lines Service Office created by s. 626.921  
333 at the same time as the agent remits the surplus lines tax to the  
334 Florida Surplus Lines Service Office. The emergency assessment on  
335 each insured procuring coverage and filing under s. 626.938 shall  
336 be remitted by the insured to the Florida Surplus Lines Service  
337 Office at the time the insured pays the surplus lines tax to the  
338 Florida Surplus Lines Service Office. The Florida Surplus Lines  
339 Service Office shall remit the collected assessments to the fund  
340 or corporation as provided in the order levied by the Office of  
341 Insurance Regulation. The Florida Surplus Lines Service Office  
342 shall verify the proper application of such emergency assessments  
343 and shall assist the board in ensuring the accurate and timely  
344 collection and remittance of assessments as required by the  
345 board. The Florida Surplus Lines Service Office shall annually  
346 calculate the aggregate written premium on property and casualty  
347 business, other than workers' compensation and medical  
348 malpractice, procured through surplus lines agents and insureds

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349 procuring coverage and filing under s. 626.938 and shall report  
350 the information to the board in a form and at a time specified by  
351 the board.

352 5. Any assessment authority not used for a particular  
353 contract year may be used for a subsequent contract year. If, for  
354 a subsequent contract year, the board determines that the amount  
355 of revenue produced under subsection (5) is insufficient to fund  
356 the obligations, costs, and expenses of the fund and the  
357 corporation, including repayment of revenue bonds and that  
358 portion of the debt service coverage not met by reimbursement  
359 premiums, the board shall direct the Office of Insurance  
360 Regulation to levy an emergency assessment up to an amount not  
361 exceeding the amount of unused assessment authority from a  
362 previous contract year or years, plus an additional 4 percent  
363 provided that the assessments in the aggregate do not exceed the  
364 limits specified in subparagraph 2.

365 6. The assessments otherwise payable to the corporation  
366 under this paragraph shall be paid to the fund unless and until  
367 the Office of Insurance Regulation and the Florida Surplus Lines  
368 Service Office have received from the corporation and the fund a  
369 notice, which shall be conclusive and upon which they may rely  
370 without further inquiry, that the corporation has issued bonds  
371 and the fund has no agreements in effect with local governments  
372 under paragraph (c). On or after the date of the notice and until  
373 the date the corporation has no bonds outstanding, the fund shall  
374 have no right, title, or interest in or to the assessments,  
375 except as provided in the fund's agreement with the corporation.

376 7. Emergency assessments are not premium and are not  
377 subject to the premium tax, to the surplus lines tax, to any

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fees, or to any commissions. An insurer is liable for all assessments that it collects and must treat the failure of an insured to pay an assessment as a failure to pay the premium. An insurer is not liable for uncollectible assessments.

8. When an insurer is required to return an unearned premium, it shall also return any collected assessment attributable to the unearned premium. A credit adjustment to the collected assessment may be made by the insurer with regard to future remittances that are payable to the fund or corporation, but the insurer is not entitled to a refund.

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2010 ~~2007~~, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2010 ~~2007~~.

Section 2. Section 215.558, Florida Statutes, is created to read:

215.558 Florida Hurricane Damage Prevention Endowment.—

(1) PURPOSE AND INTENT.—The purpose of this section is to provide a continuing source of funding for financial incentives to encourage Florida residential property owners to retrofit their properties to make them less vulnerable to hurricane

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407 damage, to help decrease the cost of residential property and  
408 casualty insurance, and to provide matching funds to local  
409 governments and nonprofit entities for projects that will reduce  
410 hurricane damage to homestead properties. It is the intent of the  
411 Legislature that this section be construed liberally to  
412 effectuate its purpose.

413 (2) DEFINITIONS.—As used in this section:

414 (a) "Board" means the State Board of Administration.

415 (b) "Corpus" means the money that has been appropriated to  
416 the endowment by the 2006 Legislature, together with any amounts  
417 subsequently appropriated to the endowment that are specifically  
418 designated as contributions to the corpus, and together with any  
419 grants, gifts, or donations to the endowment that are  
420 specifically designated as contributions to the corpus.

421 (c) "Earnings" means any money in the endowment in excess of  
422 the corpus, including any income generated by investments, any  
423 increase in the market value of investments net of decreases in  
424 market value, and any appropriations, grants, gifts, or donations  
425 to the endowment not specifically designated as contributions to  
426 the corpus.

427 (d) "Endowment" means the Florida Hurricane Damage  
428 Prevention Endowment Fund created by HB \_\_\_\_\_.

429 (e) "Program Administrator" means the Department of  
430 Community Affairs.

431 (3) ADMINISTRATION.—

432 (a) The board shall invest endowment assets as provided in  
433 this section.

434 (b) The board may invest and reinvest funds of the  
435 endowment in accordance with s. 215.47 and consistent with board

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436 policy.

437 (c) The investment objective shall be long-term  
438 preservation of the value of the corpus and a specified regular  
439 annual cash outflow for appropriation, as nonrecurring revenue,  
440 for the purposes specified in subsection (4).

441 (d) In accordance with s. 215.44, the board shall report on  
442 the financial status of the endowment in its annual investment  
443 report to the Legislature.

444 (e) Costs and fees of the board for investment services  
445 shall be deducted from the assets of the endowment.

446 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE  
447 PREVENTION ACTIVITIES.—

448 (a) Not less than 80 percent of the net earnings of the  
449 endowment shall be expended for financial incentives to  
450 residential property owners as described in paragraph (b), and no  
451 more than the remainder of the net earnings of the endowment  
452 shall be expended for matching fund grants to local governments  
453 and nonprofit entities for projects that will reduce hurricane  
454 damage to residential properties as described in paragraph (c).  
455 Any funds authorized for expenditure and not expended for these  
456 purposes shall be returned to the endowment.

457 (b)1. The program administrator shall, by rule, establish a  
458 request for proposal process to annually solicit proposals from  
459 lending institutions under which the lending institution will  
460 provide interest-free loans to homestead property owners to pay  
461 for inspections of homestead property to determine what  
462 mitigation measures are needed and for improvements to existing  
463 residential properties intended to reduce the homestead  
464 property's vulnerability to hurricane damage, in exchange for



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465 funding from the endowment.

466 2. In order to qualify for funding under this paragraph, an  
467 interest-free loan program must include an inspection of  
468 homestead property to determine what mitigation measures are  
469 needed, means for verifying that the improvements to be paid for  
470 from loan proceeds have been demonstrated to reduce a homestead  
471 property's vulnerability to hurricane damage and must include a  
472 means for verifying that the proceeds were actually spent on such  
473 improvements. The program must include a method for awarding  
474 loans according to the following priorities:

475 a. The highest priority must be given to single-family  
476 owner-occupied homestead dwellings, insured at \$500,000 or less  
477 located in the areas designated as high-risk areas for purposes  
478 of Citizens Property Insurance Corporation coverage.

479 b. The next-highest priority must be given to single-family  
480 owner-occupied homestead dwellings, insured at \$500,000 or less  
481 covered by Citizens Property Insurance Corporation, wherever  
482 located.

483 c. The next-highest priority must be given to single-family  
484 owner-occupied homestead dwellings, insured at \$500,000 or less  
485 that are more than 40 years old.

486 d. The next-highest priority must be given to all other  
487 single-family homestead owner-occupied dwellings, insured at  
488 \$500,000 or less.

489 3. The program administrator shall evaluate proposals based  
490 on the following factors:

491 a. The degree to which the proposal meets the requirements  
492 of subparagraph 2.

493 b. The lending institution's plan for marketing the loans.

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494 c. The anticipated number of loans to be granted relative to  
495 the total amount of funding sought.

496 4. The program administrator shall annually solicit  
497 proposals from local governments and nonprofit entities for  
498 projects that will reduce hurricane damage to homestead  
499 properties. The program administrator may provide up to 50  
500 percent of the funding for such projects. The projects may  
501 include educational programs, repair services, property  
502 inspections and hurricane vulnerability analyses, and such other  
503 projects as the program administrator determines to be consistent  
504 with the purposes of this section.

505 (5) ADVISORY COUNCIL.— There is created an advisory council  
506 to provide advice and assistance to the program administrator  
507 with regard to its administration of the endowment. The advisory  
508 council shall consist of:

509 (a) A representative of lending institutions, selected by  
510 the Financial Services Commission from a list of at least three  
511 persons recommended by the Florida Bankers Association.

512 (b) A representative of residential property insurers,  
513 selected by the Financial Services Commission from a list of at  
514 least three persons recommended by the Florida Insurance Council.

515 (c) A representative of home builders, selected by the  
516 Financial Services Commission from a list of at least three  
517 persons recommended by the Florida Home Builders Association.

518 (d) A faculty member of a state university selected by the  
519 Financial Services Commission who is an expert in hurricane-  
520 resistant construction methodologies and materials.

521 (e) Two members of the House of Representatives selected by  
522 the Speaker of the House of Representatives.

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523       (f) Two members of the Senate selected by the President of  
524 the Senate.

525       (g) The senior officer of the Florida Hurricane Catastrophe  
526 Fund.

527       (h) The executive director of Citizens Property Insurance  
528 Corporation.

529       (i) The director of the Division of Emergency Management.

530  
531 Members appointed under paragraphs (a)-(d) shall serve at the  
532 pleasure of the Financial Services Commission Members appointed  
533 under paragraphs (e) and (f) shall serve at the pleasure of the  
534 appointing officer. All other members shall serve ex officio.  
535 Members of the advisory council shall serve without compensation,  
536 but may receive reimbursement as provided in s. 112.061 for per  
537 diem and travel expenses incurred in the performance of their  
538 official duties.

539       Section 3. The sum of \$100 million is appropriated from the  
540 General Revenue Fund to the Florida Hurricane Damage Prevention  
541 Endowment, as a nonrecurring appropriation for the purposes  
542 specified in s. 215.558, Florida Statutes, as created by this  
543 act.

544       Section 4. Section 215.5585, Florida Statutes, is created  
545 to read:

546       215.5585 Wind certification and hurricane mitigation  
547 inspections.--

548       (1) The purpose of this section is to provide wind  
549 certification and hurricane mitigation inspections to eligible  
550 Florida homeowners to assist them in retrofitting their  
551 properties to make them less vulnerable to hurricane damage.

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552        (2) The Department of Community Affairs shall establish a  
553 request for proposal to solicit proposals from wind certification  
554 entities to provide, at no cost to homeowners, wind certification  
555 and hurricane mitigation inspections. The inspections provided  
556 to homeowners must, at a minimum, include the following:

557        (a) A home inspection and report which summarizes the  
558 results and identifies corrective actions a homeowner may take to  
559 mitigate hurricane damage;

560        (b) A range of cost estimates regarding the mitigation  
561 features;

562        (c) Insurer specific information regarding premium  
563 discounts correlated to recommended mitigation features  
564 identified by the inspection;

565        (d) A hurricane resistance rating scale specifying the  
566 home's current, as well as projected, wind resistance  
567 capabilities.

568        (3) To qualify for selection by the department as a  
569 provider of wind certification and hurricane mitigation  
570 inspections the entity must, at a minimum, comply with the  
571 following:

572        (a) Utilize wind certification and hurricane mitigation  
573 inspectors who meet the following criteria:

574        1. Have prior experience in residential construction or  
575 inspection and who have received specialized training in  
576 hurricane mitigation procedures;

577        2. Have undergone drug testing and background checks; and

578        3. Have been certified, in a manner satisfactory to the  
579 department, to conduct the inspections.

580        (b) Provide a quality assurance program including a re-

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581 inspection component.

582 (4) The Department of Community Affairs shall adopt rules  
583 governing the wind certification and wind mitigation inspection  
584 program.

585 Section 5. The sum of \$5.5 million is appropriated from the  
586 General Revenue Fund to the Department of Community Affairs, as a  
587 nonrecurring appropriation for the purposes specified in s.  
588 215.5585, Florida Statutes, as created by this act.

589 Section 6. Section 626.918, Florida Statutes, is amended to  
590 read:

591 626.918 Eligible surplus lines insurers.--

592 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any  
593 coverage with any unauthorized insurer which is not then an  
594 eligible surplus lines insurer, except as permitted under  
595 subsections (6)-(5) and (7)-(6).

596 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become  
597 an eligible surplus lines insurer unless made eligible by the  
598 office in accordance with the following conditions:

599 (a) Eligibility of the insurer must be requested in writing  
600 by the Florida Surplus Lines Service Office;

601 (b) The insurer must be currently an authorized insurer in  
602 the state or country of its domicile as to the kind or kinds of  
603 insurance proposed to be so placed and must have been such an  
604 insurer for not less than the 3 years next preceding or must be  
605 the wholly owned subsidiary of such authorized insurer or must be  
606 the wholly owned subsidiary of an already eligible surplus lines  
607 insurer as to the kind or kinds of insurance proposed for a  
608 period of not less than the 3 years next preceding. However, the  
609 office may waive the 3-year requirement if the insurer provides a

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product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than \$25 million;

(c) Before granting eligibility, the requesting surplus lines agent or the insurer shall furnish the office with a duly authenticated copy of its current annual financial statement in the English language and with all monetary values therein expressed in United States dollars, at an exchange rate (in the case of statements originally made in the currencies of other countries) then-current and shown in the statement, and with such additional information relative to the insurer as the office may request;

(d)1. The insurer must have and maintain surplus as to policyholders of not less than \$15 million; in addition, an alien insurer must also have and maintain in the United States a trust fund for the protection of all its policyholders in the United States under terms deemed by the office to be reasonably adequate, in an amount not less than \$5.4 million. Any such surplus as to policyholders or trust fund shall be represented by investments consisting of eligible investments for like funds of like domestic insurers under part II of chapter 625 provided, however, that in the case of an alien insurance company, any such surplus as to policyholders may be represented by investments permitted by the domestic regulator of such alien insurance company if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of like domestic insurers under part II of chapter 625. Clean, irrevocable, unconditional, and evergreen letters of

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639 credit issued or confirmed by a qualified United States financial  
640 institution, as defined in subsection (3), may be used to fund  
641 the trust;

642       2. For those surplus lines insurers that were eligible on  
643 January 1, 1994, and that maintained their eligibility  
644 thereafter, the required surplus as to policyholders shall be:

645       a. On December 31, 1994, and until December 30, 1995, \$2.5  
646 million.

647       b. On December 31, 1995, and until December 30, 1996, \$3.5  
648 million.

649       c. On December 31, 1996, and until December 30, 1997, \$4.5  
650 million.

651       d. On December 31, 1997, and until December 30, 1998, \$5.5  
652 million.

653       e. On December 31, 1998, and until December 30, 1999, \$6.5  
654 million.

655       f. On December 31, 1999, and until December 30, 2000, \$8  
656 million.

657       g. On December 31, 2000, and until December 30, 2001, \$9.5  
658 million.

659       h. On December 31, 2001, and until December 30, 2002, \$11  
660 million.

661       i. On December 31, 2002, and until December 30, 2003, \$13  
662 million.

663       j. On December 31, 2003, and thereafter, \$15 million.

664       3. The capital and surplus requirements as set forth in  
665 subparagraph 2. do not apply in the case of an insurance exchange  
666 created by the laws of individual states, where the exchange  
667 maintains capital and surplus pursuant to the requirements of

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that state, or maintains capital and surplus in an amount not less than \$50 million in the aggregate. For an insurance exchange which maintains funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus in an amount not less than \$3 million. If the insurance exchange does not maintain funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements set forth in subparagraph 2.;

4. A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer as set forth in its holding company registration statement, as set forth in s. 628.801 and rules adopted thereunder, may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, subject to the requirement that the surplus lines insurer shall at all times be in compliance with the requirements of chapter 625.

The election shall be submitted to the office and shall be effective upon the office's being satisfied that the requirements of subparagraph 4. have been met. The initial date of election shall be the date of office approval. The election approval application shall be on a form adopted by commission rule. The office may approve an election form submitted pursuant to subparagraph 4. only if it was on file with the former Department of Insurance before February 28, 1998;

(e) The insurer must be of good reputation as to the



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697 providing of service to its policyholders and the payment of  
698 losses and claims;

699 (f) The insurer must be eligible, as for authority to  
700 transact insurance in this state, under s. 624.404(3); and

701 (g) This subsection does not apply as to unauthorized  
702 insurers made eligible under s. 626.917 as to wet marine and  
703 aviation risks.

704 (3) For purposes of subsection (2) relating to letters of  
705 credit, the term "qualified United States financial institution"  
706 means an institution that:

707 (a) Is organized or, in the case of a United States office  
708 of a foreign banking organization, is licensed under the laws of  
709 the United States or any state thereof.

710 (b) Is regulated, supervised, and examined by United States  
711 or state authorities having regulatory authority over banks and  
712 trust companies.

713 (c) Has been determined by the office or the Securities  
714 Valuation Office of the National Association of Insurance  
715 Commissioners to meet such standards of financial condition and  
716 standing as are considered necessary and appropriate to regulate  
717 the quality of financial institutions whose letters of credit are  
718 acceptable to the office.

719 (4)~~(3)~~ The office shall from time to time publish a list of  
720 all currently eligible surplus lines insurers and shall mail a  
721 copy thereof to each licensed surplus lines agent at his or her  
722 office of record with the office.

723 (5)~~(4)~~ This section shall not be deemed to cast upon the  
724 office any duty or responsibility to determine the actual  
725 financial condition or claims practices of any unauthorized

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insurer; and the status of eligibility, if granted by the office, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices and that the office has no credible evidence to the contrary.

(6)~~(5)~~ When it appears that any particular insurance risk which is eligible for export, but on which insurance coverage, in whole or in part, is not procurable from the eligible surplus lines insurers, after a search of eligible surplus lines insurers, then the surplus lines agent may file a supplemental signed statement setting forth such facts and advising the office that such part of the risk as shall be unprocurable, as aforesaid, is being placed with named unauthorized insurers, in the amounts and percentages set forth in the statement. Such named unauthorized insurer shall, however, before accepting any risk in this state, deposit with the department cash or securities acceptable to the office and department of the market value of \$50,000 for each individual risk, contract, or certificate, which deposit shall be held by the department for the benefit of Florida policyholders only; and the surplus lines agent shall procure from such unauthorized insurer and file with the office a certified copy of its statement of condition as of the close of the last calendar year. If such statement reveals, including both capital and surplus, net assets of at least that amount required for licensure of a domestic insurer, then the surplus lines agent may proceed to consummate such contract of insurance. Whenever any insurance risk, or any part thereof, is placed with an unauthorized insurer, as provided herein, the policy, binder, or cover note shall contain a statement signed by the insured and the agent with the following notation: "The

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insured is aware that certain insurers participating in this risk have not been approved to transact business in Florida nor have they been declared eligible as surplus lines insurers by the Office of Insurance Regulation of Florida. The placing of such insurance by a duly licensed surplus lines agent in Florida shall not be construed as approval of such insurer by the Office of Insurance Regulation of Florida. Consequently, the insured is aware that the insured has severely limited the assistance available under the insurance laws of Florida. The insured is further aware that he or she may be charged a reasonable per policy fee, as provided in s. 626.916(4), Florida Statutes, for each policy certified for export." All other provisions of this code shall apply to such placement the same as if such risks were placed with an eligible surplus lines insurer.

~~(7)(6)~~ When any particular insurance risk subject to subsection ~~(6)(5)~~ is eligible for placement with an unauthorized insurer and not more than 12.5 percent of the risk is so subject, the office may, at its discretion, permit the agent to obtain from the insured a signed statement as indicated in subsection ~~(6)(5)~~. All other provisions of this code apply to such placement the same as if such risks were placed with an eligible surplus lines insurer.

Section 7. Paragraph (j) is added to subsection (2) and subsection (9) of section 627.062, Florida Statutes, is added to read:

627.062 Rate standards.--

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the

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insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office under one of the following procedures:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).

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813 (b) Upon receiving a rate filing, the office shall review  
814 the rate filing to determine if a rate is excessive, inadequate,  
815 or unfairly discriminatory. In making that determination, the  
816 office shall, in accordance with generally accepted and  
817 reasonable actuarial techniques, consider the following factors:

818 1. Past and prospective loss experience within and without  
819 this state.

820 2. Past and prospective expenses.

821 3. The degree of competition among insurers for the risk  
822 insured.

823 4. Investment income reasonably expected by the insurer,  
824 consistent with the insurer's investment practices, from  
825 investable premiums anticipated in the filing, plus any other  
826 expected income from currently invested assets representing the  
827 amount expected on unearned premium reserves and loss reserves.  
828 The commission may adopt rules utilizing reasonable techniques of  
829 actuarial science and economics to specify the manner in which  
830 insurers shall calculate investment income attributable to such  
831 classes of insurance written in this state and the manner in  
832 which such investment income shall be used in the calculation of  
833 insurance rates. Such manner shall contemplate allowances for an  
834 underwriting profit factor and full consideration of investment  
835 income which produce a reasonable rate of return; however,  
836 investment income from invested surplus shall not be considered.

837 5. The reasonableness of the judgment reflected in the  
838 filing.

839 6. Dividends, savings, or unabsorbed premium deposits  
840 allowed or returned to Florida policyholders, members, or  
841 subscribers.

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842 7. The adequacy of loss reserves.

843 8. The cost of reinsurance.

844 9. Trend factors, including trends in actual losses per  
845 insured unit for the insurer making the filing.

846 10. Conflagration and catastrophe hazards, if applicable.

847 11. A reasonable margin for underwriting profit and  
848 contingencies.

849 12. The cost of medical services, if applicable.

850 13. Other relevant factors which impact upon the frequency  
851 or severity of claims or upon expenses.

852 (c) In the case of fire insurance rates, consideration  
853 shall be given to the availability of water supplies and the  
854 experience of the fire insurance business during a period of not  
855 less than the most recent 5-year period for which such experience  
856 is available.

857 (d) If conflagration or catastrophe hazards are given  
858 consideration by an insurer in its rates or rating plan,  
859 including surcharges and discounts, the insurer shall establish a  
860 reserve for that portion of the premium allocated to such hazard  
861 and shall maintain the premium in a catastrophe reserve. Any  
862 removal of such premiums from the reserve for purposes other than  
863 paying claims associated with a catastrophe or purchasing  
864 reinsurance for catastrophes shall be subject to approval of the  
865 office. Any ceding commission received by an insurer purchasing  
866 reinsurance for catastrophes shall be placed in the catastrophe  
867 reserve.

868 (e) After consideration of the rate factors provided in  
869 paragraphs (b), (c), and (d), a rate may be found by the office

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to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.

3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

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899           (f) In reviewing a rate filing, the office may require the  
900 insurer to provide at the insurer's expense all information  
901 necessary to evaluate the condition of the company and the  
902 reasonableness of the filing according to the criteria enumerated  
903 in this section.

904           (g) The office may at any time review a rate, rating  
905 schedule, rating manual, or rate change; the pertinent records of  
906 the insurer; and market conditions. If the office finds on a  
907 preliminary basis that a rate may be excessive, inadequate, or  
908 unfairly discriminatory, the office shall initiate proceedings to  
909 disapprove the rate and shall so notify the insurer. However, the  
910 office may not disapprove as excessive any rate for which it has  
911 given final approval or which has been deemed approved for a  
912 period of 1 year after the effective date of the filing unless  
913 the office finds that a material misrepresentation or material  
914 error was made by the insurer or was contained in the filing.  
915 Upon being so notified, the insurer or rating organization shall,  
916 within 60 days, file with the office all information which, in  
917 the belief of the insurer or organization, proves the  
918 reasonableness, adequacy, and fairness of the rate or rate  
919 change. The office shall issue a notice of intent to approve or a  
920 notice of intent to disapprove pursuant to the procedures of  
921 paragraph (a) within 90 days after receipt of the insurer's  
922 initial response. In such instances and in any administrative  
923 proceeding relating to the legality of the rate, the insurer or  
924 rating organization shall carry the burden of proof by a  
925 preponderance of the evidence to show that the rate is not  
926 excessive, inadequate, or unfairly discriminatory. After the  
927 office notifies an insurer that a rate may be excessive,



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928 inadequate, or unfairly discriminatory, unless the office  
929 withdraws the notification, the insurer shall not alter the rate  
930 except to conform with the office's notice until the earlier of  
931 120 days after the date the notification was provided or 180 days  
932 after the date of the implementation of the rate. The office may,  
933 subject to chapter 120, disapprove without the 60-day  
934 notification any rate increase filed by an insurer within the  
935 prohibited time period or during the time that the legality of  
936 the increased rate is being contested.

937 (h) In the event the office finds that a rate or rate  
938 change is excessive, inadequate, or unfairly discriminatory, the  
939 office shall issue an order of disapproval specifying that a new  
940 rate or rate schedule which responds to the findings of the  
941 office be filed by the insurer. The office shall further order,  
942 for any "use and file" filing made in accordance with  
943 subparagraph (a)2., that premiums charged each policyholder  
944 constituting the portion of the rate above that which was  
945 actuarially justified be returned to such policyholder in the  
946 form of a credit or refund. If the office finds that an insurer's  
947 rate or rate change is inadequate, the new rate or rate schedule  
948 filed with the office in response to such a finding shall be  
949 applicable only to new or renewal business of the insurer written  
950 on or after the effective date of the responsive filing.

951 (i) Except as otherwise specifically provided in this  
952 chapter, the office shall not prohibit any insurer, including any  
953 residual market plan or joint underwriting association, from  
954 paying acquisition costs based on the full amount of premium, as  
955 defined in s. 627.403, applicable to any policy, or prohibit any

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such insurer from including the full amount of acquisition costs in a rate filing.

(j) Effective January 1, 2007, notwithstanding any other provision of this section:

1. With respect to any residential property insurance subject to regulation under this section, a rate filing including any change to rates, rating factors, territories, classification, discounts and credits with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 10 percent, above or below the premium that would result from the insurer's rates then in effect, shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3, or other section of Florida Statutes, provided all changes specified in the filing do not result in an overall premium increase of more than 15 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the phrase "insurer's rates then in effect" includes only rates that have been lawfully in effect under any provision of this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.

2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts specified in this paragraph in any twelve month period. An insurer may proceed under other paragraphs of this section or other Florida Statutes if it seeks to exceed the premium or rate limitations of this paragraph.

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985        3. This paragraph does not affect the authority of the  
986 office to disapprove a rate as inadequate or to disapprove a  
987 filing for the unlawful use of unfairly discriminatory rating  
988 factors that are prohibited by Florida law. An insurer electing  
989 to implement a rate change under this paragraph shall submit a  
990 filing to the office at least 30 days prior to the effective date  
991 of the rate change. The office shall have 30 days after the  
992 filing's submission to review the filing and determine if the  
993 rate is inadequate or uses unfairly discriminatory rating  
994 factors. Absent a finding by the office within the 30 days that  
995 the rate is inadequate or that the insurer has used unfairly  
996 discriminatory rating factors, the filing is deemed approved. If  
997 the office finds during the 30-day period that the filing will  
998 result in inadequate premiums or otherwise endanger the insurer's  
999 solvency, the rate decrease shall be suspended. If the insurer  
1000 is implementing an overall rate increase, the results of which  
1001 continue to produce an inadequate rate such increase shall  
1002 proceed pending additional action by the office to insure the  
1003 adequacy of the rate.

1004        4. This paragraph does not apply to rate filings for any  
1005 insurance, other than residential property insurance.

1006  
1007 The provisions of this subsection shall not apply to workers'  
1008 compensation and employer's liability insurance and to motor  
1009 vehicle insurance.

1010        (9) (a) Beginning January 1, 2007, the Office of Insurance  
1011 Regulation shall annually provide a report to the President of  
1012 the Senate, the Speaker of the House of Representatives, the  
1013 minority party leader of each house of the Legislature, and the

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chairs of the standing committees of each house of the  
Legislature having jurisdiction over insurance issues, specifying  
the impact of flexible rate regulation under paragraph (2)(j) on  
the degree of competition in insurance markets in this state.

(b) The report shall include a year-by-year comparison of the  
number of companies participating in the market for each class of  
insurance and the relative rate levels. The report shall also  
specify:

1. The number of rate filings made under paragraph (2)(j),  
the rate levels under those filings, and the market share  
affected by those filings;

2. The number of filings made on a file and use basis, the  
rate levels under those filings, and the market share affected by  
those filings;

3. The number of filings made on a use and file basis, the  
rate levels under those filings, and the market share affected by  
those filings; and

4. Recommendations to promote competition in the insurance  
market and further protect insurance consumers.

Section 8. Subsection (3) of section 627.0628, Florida  
Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection  
Methodology; public records exemption; public meetings  
exemption.--

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

(a) The commission shall consider any actuarial methods,  
principles, standards, models, or output ranges that have the  
potential for improving the accuracy of or reliability of the  
hurricane loss projections used in residential property insurance

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1043 rate filings. The commission shall, from time to time, adopt  
1044 findings as to the accuracy or reliability of particular methods,  
1045 principles, standards, models, or output ranges.

1046 (b) In establishing reimbursement premiums for the Florida  
1047 Hurricane Catastrophe Fund, the State Board of Administration  
1048 must, to the extent feasible, employ actuarial methods,  
1049 principles, standards, models, or output ranges found by the  
1050 commission to be accurate or reliable.

1051 (c) With respect to a rate filing under s. 627.062, an  
1052 insurer may employ actuarial methods, principles, standards,  
1053 models, or output ranges found by the commission to be accurate  
1054 or reliable to determine hurricane loss factors for use in a rate  
1055 filing under s. 627.062. Such findings and factors are admissible  
1056 and relevant in consideration of a rate filing by the office or  
1057 in any arbitration or administrative or judicial review only if  
1058 the office and the consumer advocate appointed pursuant to s.  
1059 627.0613 have a reasonable opportunity to review ~~access to~~ all of  
1060 the basic assumptions and factors that were used in developing  
1061 the actuarial methods, principles, standards, models, or output  
1062 ranges. Inasmuch as the commission has already conducted an  
1063 exhaustive review of certain models, neither the office nor the  
1064 consumer advocate may pose any questions generated from their  
1065 respective reviews, that duplicate or compromise the conclusions  
1066 of the commission relative to the accuracy or reliability of the  
1067 models in producing hurricane loss factors for use in a rate  
1068 filing under s. 627.062. ~~, and are not precluded from disclosing~~  
1069 ~~such information in a rate proceeding.~~

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(d) The commission shall adopt revisions to previously adopted actuarial methods, principles, standards, models, or output ranges at least annually.

(e)1. A trade secret, as defined in s. 812.081, that is used in designing and constructing a hurricane loss model and that is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 9. Section 627.06281, Florida Statutes, is amended to read:

627.06281 Public hurricane loss projection model; reporting of data by insurers.--

(1) Within 30 days after a written request for loss data and associated exposure data by the office or a type I center within the State University System established to study mitigation, residential property insurers and licensed rating and advisory organizations that compile residential property insurance loss data shall provide loss data and associated exposure data for residential property insurance policies to the

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office or to a type I center within the State University System established to study mitigation, as directed by the office, for the purposes of developing, maintaining, and updating a public model for hurricane loss projections. The loss data and associated exposure data provided shall be in writing.

(2) The office may not use the public model for hurricane loss projection referred to in subsection (1) for any purpose under s. 627.062 or s. 627.351 until the model has been submitted to the Florida Commission on Hurricane Loss Projection Methodology for review under s. 627.0628 and the commission has found the model to be accurate and reliable pursuant to the same process and standards as the commission uses for the review of other hurricane loss projection models.

Section 10. Subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.--

(6) CITIZENS PROPERTY INSURANCE CORPORATION.--

(a)1.a. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that homestead property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide

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1128 property insurance to applicants who are in good faith entitled  
1129 to procure insurance through the voluntary market but are unable  
1130 to do so. The Legislature intends by this subsection that  
1131 property insurance be provided and that it continues, as long as  
1132 necessary, through an entity organized to achieve efficiencies  
1133 and economies, while providing service to policyholders,  
1134 applicants, and agents that is no less than the quality generally  
1135 provided in the voluntary market, all toward the achievement of  
1136 the foregoing public purposes. Because it is essential for the  
1137 corporation to have the maximum financial resources to pay claims  
1138 following a catastrophic hurricane, it is the intent of the  
1139 Legislature that the income of the corporation be exempt from  
1140 federal income taxation and that interest on the debt obligations  
1141 issued by the corporation be exempt from federal income taxation.

1142 b. The Legislature finds and declares that:

1143 (I) The commitment of the state, as expressed in sub-  
1144 subparagraph a., to providing a means of ensuring the  
1145 availability of property insurance through a residual market  
1146 mechanism is hereby reaffirmed.

1147 (II) Despite legislative efforts to ensure that the  
1148 residual market for property insurance is self-supporting to the  
1149 greatest reasonable extent, residual market policyholders are to  
1150 some degree subsidized by the general public through assessments  
1151 on owners of property insured in the voluntary market and their  
1152 insurers and through the potential use of general revenues of the  
1153 state to eliminate or reduce residual market deficits.

1154 (III) The degree of such subsidy is a matter of public  
1155 policy. It is the intent of the Legislature to better control the  
1156 subsidy through at least the following means:



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1157        (A) Restructuring the residual market mechanism to provide  
1158 separate treatment of homestead and nonhomestead properties, with  
1159 the intent of continuing to provide an insurance program with  
1160 limited subsidies for homestead properties while providing a  
1161 nonsubsidized insurance program for nonhomestead properties.

1162        (B) Redefining the concept of rate adequacy in the  
1163 subsidized residual market with the intent of ensuring a rate  
1164 structure that will enable the subsidized residual market to be  
1165 self-supporting except in the event of hurricane losses of a  
1166 legislatively specified magnitude. It is the intent of the  
1167 Legislature that the funding of the subsidized residual market be  
1168 structured to be self-supporting up to the point of its 100-year  
1169 probable maximum loss and that the funding be structured to make  
1170 reliance on assessments or other sources of public funding  
1171 necessary only in the event of a 100-year probable maximum loss  
1172 or larger loss.

1173        2. The Residential Property and Casualty Joint Underwriting  
1174 Association originally created by this statute shall be known, as  
1175 of July 1, 2002, as the Citizens Property Insurance Corporation.  
1176 The corporation shall provide insurance for homesteaded  
1177 residential property and may provide insurance for residential  
1178 and commercial property, for applicants who are in good faith  
1179 entitled, but are unable, to procure insurance through the  
1180 voluntary market. The corporation shall operate pursuant to a  
1181 plan of operation approved by order of the office. The plan is  
1182 subject to continuous review by the office. The office may, by  
1183 order, withdraw approval of all or part of a plan if the office  
1184 determines that conditions have changed since approval was  
1185 granted and that the purposes of the plan require changes in the

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1186 plan. For the purposes of this subsection, residential coverage  
1187 includes both personal lines residential coverage, which consists  
1188 of the type of coverage provided by homeowner's, mobile home  
1189 owner's, dwelling, tenant's, condominium unit owner's, and  
1190 similar policies, and commercial lines residential coverage,  
1191 which consists of the type of coverage provided by condominium  
1192 association, apartment building, and similar policies.

1193 3. It is the intent of the Legislature that policyholders,  
1194 applicants, and agents of the corporation receive service and  
1195 treatment of the highest possible level but never less than that  
1196 generally provided in the voluntary market. It also is intended  
1197 that the corporation be held to service standards no less than  
1198 those applied to insurers in the voluntary market by the office  
1199 with respect to responsiveness, timeliness, customer courtesy,  
1200 and overall dealings with policyholders, applicants, or agents of  
1201 the corporation.

1202 (b)1. All insurers authorized to write one or more subject  
1203 lines of business in this state are subject to assessment by the  
1204 corporation and, for the purposes of this subsection, are  
1205 referred to collectively as "assessable insurers." Insurers  
1206 writing one or more subject lines of business in this state  
1207 pursuant to part VIII of chapter 626 are not assessable insurers,  
1208 but insureds who procure one or more subject lines of business in  
1209 this state pursuant to part VIII of chapter 626 are subject to  
1210 assessment by the corporation and are referred to collectively as  
1211 "assessable insureds." An authorized insurer's assessment  
1212 liability shall begin on the first day of the calendar year  
1213 following the year in which the insurer was issued a certificate  
1214 of authority to transact insurance for subject lines of business

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1215 in this state and shall terminate 1 year after the end of the  
1216 first calendar year during which the insurer no longer holds a  
1217 certificate of authority to transact insurance for subject lines  
1218 of business in this state.

1219 2.a. All revenues, assets, liabilities, losses, and  
1220 expenses of the corporation shall be divided into four ~~three~~  
1221 separate accounts as follows:

1222 (I) Three separate homestead accounts which may provide  
1223 coverage only for homestead properties. The term "homestead  
1224 property" means a residential property which has been granted a  
1225 homestead exemption under chapter 196. The term also includes a  
1226 property that is qualified for such exemption but has not applied  
1227 for the exemption as of the date of issuance of the policy  
1228 provided the policyholder obtains the exemption within 1 year  
1229 after initial issuance of the policy. The term also includes an  
1230 owner-occupied mobile or manufactured home as defined in s.  
1231 320.01 permanently affixed to real property regardless of whether  
1232 the owner of the mobile or manufactured home is also the owner of  
1233 the land on which the mobile or manufactured home is permanently  
1234 affixed. However, the term does not include a mobile home that  
1235 is being held for display by a licensed mobile home dealer or a  
1236 licensed mobile home manufacturer and that is not owner-occupied.  
1237 For the purposes of the sub-sub-subparagraph the term "homestead  
1238 property" also includes property covered by tenant's insurance  
1239 and commercial lines residential policies. The accounts  
1240 providing coverage only for homestead properties are:

1241 (A) ~~(I)~~ A personal lines account for personal residential  
1242 policies issued by the corporation or issued by the Residential  
1243 Property and Casualty Joint Underwriting Association and renewed

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1244 by the corporation that provide comprehensive, multiperil  
1245 coverage on risks that are not located in areas eligible for  
1246 coverage in the Florida Windstorm Underwriting Association as  
1247 those areas were defined on January 1, 2002, and for such  
1248 policies that do not provide coverage for the peril of wind on  
1249 risks that are located in such areas;

1250 (B)~~(II)~~ A commercial lines account for commercial  
1251 residential policies issued by the corporation or issued by the  
1252 Residential Property and Casualty Joint Underwriting Association  
1253 and renewed by the corporation that provide coverage for basic  
1254 property perils on risks that are not located in areas eligible  
1255 for coverage in the Florida Windstorm Underwriting Association as  
1256 those areas were defined on January 1, 2002, and for such  
1257 policies that do not provide coverage for the peril of wind on  
1258 risks that are located in such areas; and

1259 (C)~~(III)~~ A high-risk account for personal residential  
1260 policies and commercial residential ~~and commercial nonresidential~~  
1261 property policies issued by the corporation or transferred to the  
1262 corporation that provide coverage for the peril of wind on risks  
1263 that are located in areas eligible for coverage in the Florida  
1264 Windstorm Underwriting Association as those areas were defined on  
1265 January 1, 2002. The high-risk account must also include quota  
1266 share primary insurance under subparagraph (c)2. The area  
1267 eligible for coverage under the high-risk account also includes  
1268 the area within Port Canaveral, which is bordered on the south by  
1269 the City of Cape Canaveral, bordered on the west by the Banana  
1270 River, and bordered on the north by Federal Government property.  
1271 The office may remove territory from the area eligible for wind-  
1272 only and quota share coverage if, after a public hearing, the

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office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.

(II) (A) A separate nonhomestead account for all properties that otherwise meet all of the criteria for eligibility for coverage within one of the three homestead accounts described in sub-sub-subparagraph (I) but that do not meet the definition of homestead property specified in sub-sub-subparagraph (I). The nonhomestead account shall provide the same types of coverage as are provided by the three homestead accounts, including wind-only coverage in the high-risk account area. In order to be eligible for coverage in the nonhomestead account, at the initial issuance of the policy and at renewal, the property owner must provide the corporation with a sworn affidavit stating that the property has been rejected for coverage by at least three authorized insurers and at least three surplus lines insurers.

(B) An authorized insurer may provide coverage to a nonhomestead property owner on a consent to rate basis without adversely affecting the insurer's maximum percentage of consent to rate policy, provided the insurer has not insured the property for the previous 12 months.

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b. The three separate homestead accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single homestead account for all revenues, assets, liabilities, losses, and expenses of the corporation. All revenues, assets, liabilities, losses, and expenses attributable to the nonhomestead account shall be maintained separately.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-sub-subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~ and shall have no claim against, or recourse to, the account referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~ a. (I) (C) ~~(III)~~. Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-sub-subparagraph ~~sub-sub-subparagraph~~ a. (I) (C) ~~(III)~~ and shall have no claim against, or recourse to, the accounts referred to in sub-sub-sub-subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~.

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the

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1330 requirements set forth in documents authorizing the issuance of  
1331 bonds under this subsection.

1332 f. No part of the income of the corporation may inure to  
1333 the benefit of any private person.

1334 g. Policies covering the peril of wind on any risk insured  
1335 in the high-risk account of the corporation may be issued and  
1336 serviced by the authorized insurer issuing and servicing the  
1337 multi peril policy that excludes wind for such risks. However,  
1338 any authorized insurer opting to perform such functions must do  
1339 so for every risk in the high-risk account areas for which it  
1340 issues and services the multi peril policy that excludes wind for  
1341 such risks. Any authorized insurer opting to perform such  
1342 servicing functions is deemed to be an independent contractor  
1343 acting only as a servicing carrier for the corporation and  
1344 performing only policy issuance, servicing and claims adjusting  
1345 functions on behalf of the corporation for a fee as provided in  
1346 this subsubparagraph and subsubparagraph (6)(b)2.k.. Except at  
1347 the option of the authorized insurer, nothing herein shall be  
1348 construed to make any authorized insurer a risk bearer for all or  
1349 any portion of the exposure of wind in the high-risk account of  
1350 the corporation.

1351 h. The corporation shall develop necessary procedures to  
1352 enable authorized insurers to issue and service its high-risk  
1353 account policies by January 1, 2007. Such procedures shall permit  
1354 any authorized insurer opting to issue and service policies of  
1355 the high-risk account to do so by either endorsing its current  
1356 approved multi peril policy excluding wind with the appropriate  
1357 approved policy of the high risk account of the corporation or by  
1358 issuing its own approved policy covering wind along with other

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perils. Neither the office nor the corporation shall prevent or impede an authorized insurer from using its own procedures, applications, rating methodologies, underwriting rules, rating territories, and electronic systems in issuing, servicing or adjusting claims for such policies, endorsements or coverage under this subsubparagraph as long as such procedures, rules, methodologies, territories or systems were not specifically prohibited by the office prior to this provision becoming law.

i. Any rate filing, or applicable portion thereof, which includes the peril of wind in the high risk account areas of the corporation submitted to the office by an authorized insurer opting to issue and service policies of the corporation under this subsection, shall be deemed approved upon submission to the office if the filing or the applicable portion of such filing, requests approval of a rate that is no more than the approved rate for similar risks insured in the high risk account of the corporation.

j. In the event of notification of a loss incurred by a policyholder in the high-risk account of the corporation, the authorized insurer issuing the policy and receiving the notice shall either adjust the claim or arrange for the claim to be adjusted and submit the claim file to the corporation for payment of the claim by the corporation. The authorized insurer may choose to pay the claim and request reimbursement of the amount of the claim from the corporation. The corporation shall reimburse such amount due the authorized insurer within 30 days of receiving the claim file. Other arrangements for transmitting the claim file or submitting claims to the corporation, claim payment or reimbursement, including electronic means, may be



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1388 entered into upon written agreement between the corporation and  
1389 the authorized insurer. Any adjuster and any authorized insurer  
1390 adjusting claims under this section shall be subject to all  
1391 applicable provisions of Part VI of Chapter 626. Any adjuster  
1392 found to be in violation of s. 626.877 or s. 626.878 is subject  
1393 to revocation or suspension of license as set forth in Chapter  
1394 626, Part VI. Any claim of \$100,000 or more must be specifically  
1395 reviewed by the corporation before payment is made to the  
1396 policyholder or reimbursement is provided to the carrier. All  
1397 claims are subject to random audit by the office up to one year  
1398 after the claim is closed and payment is made to the  
1399 policyholder. In the event of an excess payment by the authorized  
1400 insurer the corporation shall notify the authorized insurer of  
1401 the amount of overpayment and give the authorized insurer 60 days  
1402 to provide information contesting the amount of overpayment. If  
1403 agreement cannot be reached on the amount to be refunded to the  
1404 corporation, if any, the authorized insurer may request dispute  
1405 resolution through arbitration.

1406 k. Any fee owed to an authorized insurer opting to issue  
1407 and service policies under this subsubparagraph or  
1408 subsubparagraph (6)(b)2.g. shall be determined by the  
1409 corporation, and notwithstanding any other provision of the law  
1410 to the contrary, without approval from the office and shall be  
1411 calculated as a percentage of the high-risk account premium and  
1412 retained by the authorized insurer from the wind portion of the  
1413 premium received from the policyholder. The fee shall be fair  
1414 and reasonable based on the costs incurred, which shall include  
1415 recurring costs and amortization of initial programming costs.  
1416 Such fee shall also be based on other work required by the

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1417 corporation to be performed by the authorized insurer, cost  
1418 savings to the corporation, and the usual and customary fees paid  
1419 to servicing carriers performing similar functions. At the  
1420 request of any authorized insurer performing servicing functions  
1421 under this section, such fee for services shall be subject to  
1422 binding arbitration as set forth in s. 627.062. The authorized  
1423 insurer shall remit the balance of the premium less the fee to  
1424 the corporation within 30 days of receipt of the premium from the  
1425 policyholder. No authorized insurer shall be owed a fee for  
1426 policies upon which it voluntarily provided coverage for wind  
1427 including other perils on or after January 1, 2006 and prior to  
1428 this section becoming law.

1429 1. Any application for any risk to the high risk account of  
1430 the corporation provided by the authorized insurer issuing and  
1431 servicing the policy shall contain or be accompanied by the  
1432 following statement in 12 point bold-face type:

1433  
1434 "THE WIND COVERAGE PROVIDED IS UNDERWRITTEN BY CITIZENS  
1435 PROPERTY INSURANCE CORPORATION AND IS SUBJECT TO TAKEOUT BY AN  
1436 AUTHORIZED INSURER. WIND COVERAGE PROVIDED BY A TAKEOUT  
1437 COMPANY MAY NOT BE IDENTICAL TO THE WIND COVERAGE INITIALLY  
1438 PROVIDED IN THIS POLICY."

1439  
1440 m. There shall be no liability on the part of, and no cause  
1441 of action of any nature shall arise against, any authorized  
1442 insurer opting to issue and service policies for the corporation  
1443 as provided in this subsection while it is acting within the  
1444 scope of its authority under this subsection or its agents or  
1445 employees for any action taken by them in the performance of

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1446 their duties or responsibilities under this subsection. Such  
1447 immunity does not apply to actions for breach of any contract or  
1448 agreement pertaining to insurance, or any willful tort.

1449 n. Producers of the corporation and their employers shall  
1450 not be held liable, and no cause of action shall arise against  
1451 producers of the corporation or their employer, directly or  
1452 indirectly, as a result of depopulation activities of any account  
1453 of the corporation. Such immunity applies to actions that may  
1454 arise due to differences in coverage or procedures between any  
1455 takeout carrier and the corporation or for insolvency of any  
1456 takeout carrier.

1457  
1458 3. With respect to a deficit in any of the homestead  
1459 accounts ~~an account~~:

1460 a. When the deficit incurred in a particular calendar year  
1461 is not greater than 10 percent of the aggregate statewide direct  
1462 written premium for the subject lines of business for the prior  
1463 calendar year, the entire deficit shall be recovered through  
1464 regular assessments of assessable insurers under paragraph (g)  
1465 and assessable insureds.

1466 b. When the deficit incurred in a particular calendar year  
1467 exceeds 10 percent of the aggregate statewide direct written  
1468 premium for the subject lines of business for the prior calendar  
1469 year, the corporation shall levy regular assessments on  
1470 assessable insurers under paragraph (g) and on assessable  
1471 insureds in an amount equal to the greater of 10 percent of the  
1472 deficit or 10 percent of the aggregate statewide direct written  
1473 premium for the subject lines of business for the prior calendar

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1474 year. Any remaining deficit shall be recovered through emergency  
1475 assessments under sub-subparagraph d.

1476 c. Each assessable insurer's share of the amount being  
1477 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
1478 be in the proportion that the assessable insurer's direct written  
1479 premium for the subject lines of business for the year preceding  
1480 the year in which the deficit is incurred ~~assessment~~ bears to the  
1481 aggregate statewide direct written premium for the subject lines  
1482 of business for that year. The assessment percentage applicable  
1483 to each assessable insured is the ratio of the amount being  
1484 assessed under sub-subparagraph a. or sub-subparagraph b. to the  
1485 aggregate statewide direct written premium for the subject lines  
1486 of business for the prior year. Assessments levied by the  
1487 corporation on assessable insurers under sub-subparagraphs a. and  
1488 b. shall be paid as required by the corporation's plan of  
1489 operation and paragraph (g). Notwithstanding any other provision  
1490 in the subsection, the aggregate amount of a regular assessment  
1491 levied in connection with a deficit incurred in a particular  
1492 calendar year shall be reduced by the aggregate amount of the  
1493 Citizens policyholder surcharge imposed under subparagraph (c)10.  
1494 Assessments levied by the corporation on assessable insureds  
1495 under sub-subparagraphs a. and b. shall be collected by the  
1496 surplus lines agent at the time the surplus lines agent collects  
1497 the surplus lines tax required by s. 626.932 and shall be paid to  
1498 the Florida Surplus Lines Service Office at the time the surplus  
1499 lines agent pays the surplus lines tax to the Florida Surplus  
1500 Lines Service Office. Upon receipt of regular assessments from  
1501 surplus lines agents, the Florida Surplus Lines Service Office

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shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service

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1531 Office. The emergency assessments so collected shall be  
1532 transferred directly to the corporation on a periodic basis as  
1533 determined by the corporation and shall be held by the  
1534 corporation solely in the applicable account. The aggregate  
1535 amount of emergency assessments levied for an account under this  
1536 sub-subparagraph in any calendar year may not exceed the greater  
1537 of 10 percent of the amount needed to cover the original deficit,  
1538 plus interest, fees, commissions, required reserves, and other  
1539 costs associated with financing of the original deficit, or 10  
1540 percent of the aggregate statewide direct written premium for  
1541 subject lines of business and for all accounts of the corporation  
1542 for the prior year, plus interest, fees, commissions, required  
1543 reserves, and other costs associated with financing the original  
1544 deficit.

1545 e. The corporation may pledge the proceeds of assessments,  
1546 projected recoveries from the Florida Hurricane Catastrophe Fund,  
1547 other insurance and reinsurance recoverables, Citizens  
1548 policyholder ~~market equalization~~ surcharges and other surcharges,  
1549 and other funds available to the corporation as the source of  
1550 revenue for and to secure bonds issued under paragraph (g), bonds  
1551 or other indebtedness issued under subparagraph (c)3., or lines  
1552 of credit or other financing mechanisms issued or created under  
1553 this subsection, or to retire any other debt incurred as a result  
1554 of deficits or events giving rise to deficits, or in any other  
1555 way that the board determines will efficiently recover such  
1556 deficits. The purpose of the lines of credit or other financing  
1557 mechanisms is to provide additional resources to assist the  
1558 corporation in covering claims and expenses attributable to a  
1559 catastrophe. As used in this subsection, the term "assessments"

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includes regular assessments under sub-subparagraph a., sub-subparagraph b., or subparagraph (g)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.

g. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and shall report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the

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1588 requirements of this subsection and the corporation's financing  
1589 obligations.

1590 h. The Florida Surplus Lines Service Office shall verify  
1591 the proper application by surplus lines agents of assessment  
1592 percentages for regular assessments and emergency assessments  
1593 levied under this subparagraph on assessable insureds and shall  
1594 assist the corporation in ensuring the accurate, timely  
1595 collection and payment of assessments by surplus lines agents as  
1596 required by the corporation.

1597 4. With respect to a deficit in the nonhomestead account or  
1598 to any cash flow shortfall that the board determines will create  
1599 an inability for the nonhomestead account to pay claims when due:

1600 a. The board shall levy an immediate assessment against the  
1601 premium of each nonhomestead account policyholder, expressed as a  
1602 uniform percentage of the premium for the policy then in effect.  
1603 The maximum amount of such assessment is 100 percent of such  
1604 premium.

1605 b. If the assessment under sub-subparagraph a. is  
1606 insufficient to enable the account to pay claims and eliminate  
1607 the deficit in the account, the board may levy an additional  
1608 assessment to be collected at the time of any issuance or renewal  
1609 of a nonhomestead account policy during the 1-year period  
1610 following the levy of the assessment under sub-subparagraph a.,  
1611 expressed as a uniform percentage of the premium for the policy  
1612 for the forthcoming policy period. The maximum amount of such  
1613 assessment is 100 percent of such premium.

1614 c. If the assessments under sub-subparagraphs a. and b. are  
1615 insufficient to enable the account to pay claims and eliminate  
1616 the deficit in the account, the board may make a loan from any of



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the homestead accounts to the nonhomestead account, subject to approval by the office and provided that such loan does not impair the financial status of any of the homestead accounts.

5. A policyholder in a nonhomestead account who has not paid a deficit assessment levied by the corporation shall be ineligible for coverage by a surplus lines insurer or authorized insurer.

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms, rates, and underwriting rules and commercial residential and nonresidential property insurance forms, rates, and underwriting rules which ~~forms~~ must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are

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applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.- e. which contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to

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1675 pay its specified percentage of hurricane losses. Eligible risks  
1676 that are provided hurricane coverage through a quota share  
1677 primary insurance arrangement must be provided policy forms that  
1678 set forth the obligations of the corporation and authorized  
1679 insurer under the arrangement, clearly specify the percentages of  
1680 quota share primary insurance provided by the corporation and  
1681 authorized insurer, and conspicuously and clearly state that  
1682 neither the authorized insurer nor the corporation may be held  
1683 responsible beyond its specified percentage of coverage of  
1684 hurricane losses.

1685       (II) "Eligible risks" means personal lines residential and  
1686 commercial lines residential risks that meet the underwriting  
1687 criteria of the corporation and are located in areas that were  
1688 eligible for coverage by the Florida Windstorm Underwriting  
1689 Association on January 1, 2002.

1690       b. The corporation may enter into quota share primary  
1691 insurance agreements with authorized insurers at corporation  
1692 coverage levels of 90 percent and 50 percent.

1693       c. If the corporation determines that additional coverage  
1694 levels are necessary to maximize participation in quota share  
1695 primary insurance agreements by authorized insurers, the  
1696 corporation may establish additional coverage levels. However,  
1697 the corporation's quota share primary insurance coverage level  
1698 may not exceed 90 percent.

1699       d. Any quota share primary insurance agreement entered into  
1700 between an authorized insurer and the corporation must provide  
1701 for a uniform specified percentage of coverage of hurricane  
1702 losses, by county or territory as set forth by the corporation

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board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the

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1732 agreement by the insurance agent of the authorized insurer  
1733 producing the business, the reporting of information concerning  
1734 eligible risks, the payment of premium to the corporation, and  
1735 arrangements for the adjustment and payment of hurricane claims  
1736 incurred on eligible risks by the claims adjuster and personnel  
1737 of the authorized insurer. Entering into a quota sharing  
1738 insurance agreement between the corporation and an authorized  
1739 insurer shall be voluntary and at the discretion of the  
1740 authorized insurer.

1741         3. May provide that the corporation may employ or otherwise  
1742 contract with individuals or other entities to provide  
1743 administrative or professional services that may be appropriate  
1744 to effectuate the plan. The corporation shall have the power to  
1745 borrow funds, by issuing bonds or by incurring other  
1746 indebtedness, and shall have other powers reasonably necessary to  
1747 effectuate the requirements of this subsection, including,  
1748 without limitation, the power to issue bonds and incur other  
1749 indebtedness in order to refinance outstanding bonds or other  
1750 indebtedness. The corporation may, but is not required to, seek  
1751 judicial validation of its bonds or other indebtedness under  
1752 chapter 75. The corporation may issue bonds or incur other  
1753 indebtedness, or have bonds issued on its behalf by a unit of  
1754 local government pursuant to subparagraph (g)2., in the absence  
1755 of a hurricane or other weather-related event, upon a  
1756 determination by the corporation, subject to approval by the  
1757 office, that such action would enable it to efficiently meet the  
1758 financial obligations of the corporation and that such financings  
1759 are reasonably necessary to effectuate the requirements of this  
1760 subsection. The corporation is authorized to take all actions

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1761 needed to facilitate tax-free status for any such bonds or  
1762 indebtedness, including formation of trusts or other affiliated  
1763 entities. The corporation shall have the authority to pledge  
1764 assessments, projected recoveries from the Florida Hurricane  
1765 Catastrophe Fund, other reinsurance recoverables, market  
1766 equalization and other surcharges, and other funds available to  
1767 the corporation as security for bonds or other indebtedness. In  
1768 recognition of s. 10, Art. I of the State Constitution,  
1769 prohibiting the impairment of obligations of contracts, it is the  
1770 intent of the Legislature that no action be taken whose purpose  
1771 is to impair any bond indenture or financing agreement or any  
1772 revenue source committed by contract to such bond or other  
1773 indebtedness.

1774       4.a. Must require that the corporation operate subject to  
1775 the supervision and approval of a board of governors consisting  
1776 of 8 individuals who are residents of this state, from different  
1777 geographical areas of this state. The Governor, the Chief  
1778 Financial Officer, the President of the Senate, and the Speaker  
1779 of the House of Representatives shall each appoint two members of  
1780 the board, effective August 1, 2005. At least one of the two  
1781 members appointed by each appointing officer must have  
1782 demonstrated expertise in insurance. The Chief Financial Officer  
1783 shall designate one of the appointees as chair. All board members  
1784 serve at the pleasure of the appointing officer. All board  
1785 members, including the chair, must be appointed to serve for 3-  
1786 year terms beginning annually on a date designated by the plan.  
1787 Any board vacancy shall be filled for the unexpired term by the  
1788 appointing officer. The Chief Financial Officer shall appoint a  
1789 technical advisory group to provide information and advice to the

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board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board, as recommended by the Chief Financial Officer, and serve at the pleasure of the board. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board and the Chief Financial Officer.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary

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market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:



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1848           (A) Pay to the producing agent of record of the policy, for  
1849 the first year, an amount that is the greater of the insurer's  
1850 usual and customary commission for the type of policy written or  
1851 a fee equal to the usual and customary commission of the  
1852 corporation; or

1853           (B) Offer to allow the producing agent of record of the  
1854 policy to continue servicing the policy for a period of not less  
1855 than 1 year and offer to pay the agent the greater of the  
1856 insurer's or the corporation's usual and customary commission for  
1857 the type of policy written.

1858  
1859 If the producing agent is unwilling or unable to accept  
1860 appointment, the new insurer shall pay the agent in accordance  
1861 with sub-sub-sub-subparagraph (A).

1862           (II) When the corporation enters into a contractual  
1863 agreement for a take-out plan, the producing agent of record of  
1864 the corporation policy is entitled to retain any unearned  
1865 commission on the policy, and the insurer shall:

1866           (A) Pay to the producing agent of record of the corporation  
1867 policy, for the first year, an amount that is the greater of the  
1868 insurer's usual and customary commission for the type of policy  
1869 written or a fee equal to the usual and customary commission of  
1870 the corporation; or

1871           (B) Offer to allow the producing agent of record of the  
1872 corporation policy to continue servicing the policy for a period  
1873 of not less than 1 year and offer to pay the agent the greater of  
1874 the insurer's or the corporation's usual and customary commission  
1875 for the type of policy written.

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1877 If the producing agent is unwilling or unable to accept  
1878 appointment, the new insurer shall pay the agent in accordance  
1879 with sub-sub-sub-subparagraph (A).

1880       b. With respect to commercial lines residential risks, if  
1881 the risk is offered coverage under a policy including wind  
1882 coverage from an authorized insurer at its approved rate, the  
1883 risk is not eligible for any policy issued by the corporation. If  
1884 the risk is not able to obtain any such offer, the risk is  
1885 eligible for a policy including wind coverage issued by the  
1886 corporation.

1887       (I) If the risk accepts an offer of coverage through the  
1888 market assistance plan or an offer of coverage through a  
1889 mechanism established by the corporation before a policy is  
1890 issued to the risk by the corporation or during the first 30 days  
1891 of coverage by the corporation, and the producing agent who  
1892 submitted the application to the plan or the corporation is not  
1893 currently appointed by the insurer, the insurer shall:

1894       (A) Pay to the producing agent of record of the policy, for  
1895 the first year, an amount that is the greater of the insurer's  
1896 usual and customary commission for the type of policy written or  
1897 a fee equal to the usual and customary commission of the  
1898 corporation; or

1899       (B) Offer to allow the producing agent of record of the  
1900 policy to continue servicing the policy for a period of not less  
1901 than 1 year and offer to pay the agent the greater of the  
1902 insurer's or the corporation's usual and customary commission for  
1903 the type of policy written.

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If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

c. To preserve existing incentives for carriers to write dwellings in the voluntary market and not in the corporation, the corporation shall continue to offer authorized insurers, including insurers writing dwellings valued at one million dollars or greater, the same voluntary writing credits that were available on January 1, 2006 to carriers writing wind coverage for dwellings in the areas eligible for coverage in the High Risk Account.

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1934 ~~d.e.~~ With respect to personal lines residential risks, if  
1935 the risk is a dwelling with an insured value of one million  
1936 dollars or greater, or if the risk is one which is excluded from  
1937 the coverage to be provided by the condominium association under  
1938 s. 718.111(11) (b) and which is insured by the condominium unit  
1939 owner for a combined dwelling and contents replacement cost of  
1940 one million dollars or greater, the risk is not eligible for any  
1941 policy issued by the corporation. An authorized insurer covering  
1942 a personal lines residential risk not eligible for coverage by  
1943 the corporation specified by this subparagraph may provide  
1944 coverage on a consent to rate basis without counting against the  
1945 insurer's maximum percentage of consent to rate policies.

1946 e. With respect to nonhomestead property, eligibility must  
1947 be determined in accordance with s. 627.351(6) (b) 2.a.II(a).

1948 6. Must include rules for classifications of risks and  
1949 rates therefor.

1950 7. Must provide that if premium and investment income for  
1951 an account attributable to a particular calendar year are in  
1952 excess of projected losses and expenses for the account  
1953 attributable to that year, such excess shall be held in surplus  
1954 in the account. Such surplus shall be available to defray  
1955 deficits in that account as to future years and shall be used for  
1956 that purpose prior to assessing assessable insurers and  
1957 assessable insureds as to any calendar year.

1958 8. Must provide objective criteria and procedures to be  
1959 uniformly applied for all applicants in determining whether an  
1960 individual risk is so hazardous as to be uninsurable. In making  
1961 this determination and in establishing the criteria and  
1962 procedures, the following shall be considered:

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1963 a. Whether the likelihood of a loss for the individual risk  
1964 is substantially higher than for other risks of the same class;  
1965 and

1966 b. Whether the uncertainty associated with the individual  
1967 risk is such that an appropriate premium cannot be determined.

1968  
1969 The acceptance or rejection of a risk by the corporation shall be  
1970 construed as the private placement of insurance, and the  
1971 provisions of chapter 120 shall not apply.

1972 9. Must provide that the corporation shall make its best  
1973 efforts to procure catastrophe reinsurance at reasonable rates,  
1974 to cover its projected 100-year probable maximum loss in the  
1975 homestead accounts as determined by the board of governors.

1976 10. Must provide that in the event of regular deficit  
1977 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
1978 (b)3.b., in the personal lines homestead account, the commercial  
1979 lines residential homestead account, or the high-risk homestead  
1980 account, the corporation shall levy upon corporation homestead  
1981 account policyholders in its next rate filing, or by a separate  
1982 rate filing solely for this purpose, a Citizens policyholder  
1983 ~~market equalization~~ surcharge arising from a regular assessment  
1984 in such account in a percentage equal to the total amount of such  
1985 regular assessments divided by the aggregate statewide direct  
1986 written premium for subject lines of business for the ~~prior~~  
1987 ~~calendar~~ year preceding the year in which the deficit to which  
1988 the regular assessment relates is incurred. Citizens  
1989 policyholders ~~Market equalization~~ surcharges under this  
1990 subparagraph are not considered premium and are not subject to  
1991 commissions, fees, or premium taxes; however, failure to pay a

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1992 Citizens policyholder ~~market equalization~~ surcharge shall be  
1993 treated as failure to pay premium. Notwithstanding any other  
1994 provision of this section, for purposes of the Citizens  
1995 policyholder surcharges to be levied pursuant to this  
1996 subparagraph, the total amount of the regular assessment to which  
1997 such Citizens policyholder surcharge relates shall be determined  
1998 as set forth in paragraph (b)3.a., b. and c.

1999 11. The policies issued by the corporation must provide  
2000 that, if the corporation or the market assistance plan obtains an  
2001 offer from an authorized insurer to cover the risk at its  
2002 approved rates, the risk is no longer eligible for renewal  
2003 through the corporation.

2004 12. Corporation policies and applications must include a  
2005 notice that the corporation policy could, under this section, be  
2006 replaced with a policy or an insurer writing coverage pursuant to  
2007 part VIII of Chapter 626 issued by an authorized insurer that  
2008 does not provide coverage identical to the coverage provided by  
2009 the corporation. The notice shall also specify that acceptance of  
2010 corporation coverage creates a conclusive presumption that the  
2011 applicant or policyholder is aware of this potential.

2012 13. May establish, subject to approval by the office,  
2013 different eligibility requirements and operational procedures for  
2014 any line or type of coverage for any specified county or area if  
2015 the board determines that such changes to the eligibility  
2016 requirements and operational procedures are justified due to the  
2017 voluntary market being sufficiently stable and competitive in  
2018 such area or for such line or type of coverage and that consumers  
2019 who, in good faith, are unable to obtain insurance through the  
2020 voluntary market through ordinary methods would continue to have

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access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

14. Must provide that, with respect to the high-risk homestead account, any assessable insurer with a surplus as to policyholders of \$25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. In no event shall a limited apportionment company be required to participate in the portion of any assessment, within the high-risk account, pursuant to sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which exceeds \$50 million after payment of available high-risk account funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

15. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the

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agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

16. Must provide that the hurricane deductible for any property in the nonhomestead account with an insured value of \$250,000 or more must be at least 5 percent of the insured value.

17. Must provide that the application for coverage under the nonhomestead account and the declaration page of each nonhomestead account policy include a statement in boldface 12-point type specifying that public subsidies do not support the corporation's coverage of nonhomestead property; that if the nonhomestead account of the corporation sustains a deficit or is unable to pay claims, the nonhomestead policyholder shall be subject to an immediate assessment in an amount up to 100 percent of the premium and a further assessment upon renewal of the policy; and that the applicant or policyholder may wish to seek alternative coverage from an authorized insurer or surplus line insurer that will not be subject to such potential assessments.

18. Must provide that the application for coverage under any of the homestead accounts and the declaration page of each homestead account policy include a statement in boldface 12-point type specifying that a false declaration of homestead status for purposes of obtaining coverage in any of the homestead accounts may constitute the offense of insurance fraud, as prohibited and punishable as a felony under s. 817.234.

19. Must limit coverage on mobile or manufactured homes built prior to 1994 to actual cash value of the dwelling, rather than on the basis of replacement costs of the dwelling.



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2079        20. The corporation must purchase catastrophe reinsurance  
2080 on the nonhomestead account in amounts sufficient, together with  
2081 Florida Hurricane Catastrophe Fund coverage, to cover the  
2082 account's 250 year probable maximum loss.

2083        (d)1.a. It is the intent of the Legislature that the rates  
2084 for coverage provided by the corporation be actuarially sound and  
2085 not competitive with approved rates charged in the admitted  
2086 voluntary market, so that the corporation functions as a residual  
2087 market mechanism to provide insurance only when the insurance  
2088 cannot be procured in the voluntary market. Rates shall include a  
2089 residual market risk load that reflects the concentrated exposure  
2090 of the corporation and the impact of adverse selection as well as  
2091 a catastrophe loading factor that reflects the actual  
2092 catastrophic exposure of the corporation.

2093        b. It is the intent of the Legislature to reaffirm the  
2094 requirement of rate adequacy in the residual market. Recognizing  
2095 that rates may comply with the intent expressed in sub-  
2096 subparagraph a. and yet be inadequate and recognizing the public  
2097 need to limit subsidies within the residual market, it is the  
2098 further intent of the Legislature to establish statutory  
2099 standards for rate adequacy. Such standards are intended to  
2100 supplement the standard specified in s. 627.062(2)(e)3.,  
2101 providing that rates are inadequate if they are clearly  
2102 insufficient to sustain projected losses and expenses in the  
2103 class of business to which they apply.

2104        2. For each county, the average rates of the corporation  
2105 for each line of business for personal lines residential policies  
2106 excluding rates for wind-only policies shall be no lower than the  
2107 average rates charged by the insurer that had the highest average

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rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.

3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.

4. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition

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2137 does not exist for personal lines residential policies. The  
2138 provisions of subparagraph 3. do not apply to coverage provided  
2139 by the corporation in Monroe County if the office determines that  
2140 a reasonable degree of competition does not exist for personal  
2141 lines residential policies in the area of that county which is  
2142 eligible for wind-only coverage. In this county, the rates for  
2143 personal lines residential coverage shall be actuarially sound  
2144 and not excessive, inadequate, or unfairly discriminatory and are  
2145 subject to the other provisions of the paragraph and s. 627.062.  
2146 The commission shall adopt rules establishing the criteria for  
2147 determining whether a reasonable degree of competition exists for  
2148 personal lines residential policies in Monroe County. By March 1,  
2149 2006, the office shall submit a report to the Legislature  
2150 providing an evaluation of the implementation of the pilot  
2151 program affecting Monroe County.

2152 5. Rates for commercial lines coverage shall not be subject  
2153 to the requirements of subparagraph 2., but shall be subject to  
2154 all other requirements of this paragraph and s. 627.062.

2155 6.a. Nothing in this paragraph shall require or allow the  
2156 corporation to adopt a rate that is inadequate under s. 627.062  
2157 or under sub-subparagraph b. or sub-subparagraph c.

2158 b. With respect to rates for coverage in any homestead  
2159 account, a rate is deemed inadequate if the rate is not  
2160 sufficient to generate, by means of cash flow, procurement of  
2161 coverage under the Florida Hurricane Catastrophe Fund;  
2162 procurement of reinsurance; and investment income, moneys  
2163 sufficient to pay all claims and expenses reasonably expected to  
2164 result from a 100-year probable maximum loss event without resort  
2165 to any regular or emergency assessments, long-term debt, state

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2166 revenues, or other funding sources that reflect any subsidy from  
2167 persons or entities other than corporation homestead accounts  
2168 policyholders.

2169 c. With respect to rates for coverage in the nonhomestead  
2170 account, a rate is deemed inadequate if the rate is not  
2171 sufficient to generate, by means of cash flow, procurement of  
2172 coverage under the Florida Hurricane Catastrophe Fund;  
2173 procurement of reinsurance; and investment income, moneys  
2174 sufficient to pay all claims and expenses reasonably expected to  
2175 result from a 250-year probable maximum loss event without resort  
2176 to any assessments, debt, state revenues, or other funding  
2177 sources that reflect any subsidy from persons or entities other  
2178 than corporation nonhomestead account policyholders.

2179 7. The corporation shall certify to the office at least  
2180 twice annually that its personal lines rates comply with the  
2181 requirements of subparagraphs 1., ~~and 2., and 6.~~ If any  
2182 adjustment in the rates or rating factors of the corporation is  
2183 necessary to ensure such compliance, the corporation shall make  
2184 and implement such adjustments and file its revised rates and  
2185 rating factors with the office. If the office thereafter  
2186 determines that the revised rates and rating factors fail to  
2187 comply with the provisions of subparagraphs 1. and 2., it shall  
2188 notify the corporation and require the corporation to amend its  
2189 rates or rating factors in conjunction with its next rate filing.  
2190 The office must notify the corporation by electronic means of any  
2191 rate filing it approves for any insurer among the insurers  
2192 referred to in subparagraph 2.

2193 8. In addition to the rates otherwise determined pursuant  
2194 to this paragraph, the corporation shall impose and collect an

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amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

~~9.a. To assist the corporation in developing additional ratemaking methods to assure compliance with subparagraphs 1. and 4., the corporation shall appoint a rate methodology panel consisting of one person recommended by the Florida Association of Insurance Agents, one person recommended by the Professional Insurance Agents of Florida, one person recommended by the Florida Association of Insurance and Financial Advisors, one person recommended by the insurer with the highest voluntary market share of residential property insurance business in the state, one person recommended by the insurer with the second highest voluntary market share of residential property insurance business in the state, one person recommended by an insurer writing commercial residential property insurance in this state, one person recommended by the Office of Insurance Regulation, and one board member designated by the board chairman, who shall serve as chairman of the panel.~~

~~b. By January 1, 2004, the rate methodology panel shall provide a report to the corporation of its findings and recommendations for the use of additional ratemaking methods and procedures, including the use of a rate equalization surcharge in an amount sufficient to assure that the total cost of coverage for policyholders or applicants to the corporation is sufficient to comply with subparagraph 1.~~

~~c. Within 30 days after such report, the corporation shall present to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of each house of the Legislature, and the chairs of the standing committees of~~

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each house of the Legislature having jurisdiction of insurance issues, a plan for implementing the additional ratemaking methods and an outline of any legislation needed to facilitate use of the new methods.

~~d. The plan must include a provision that producer commissions paid by the corporation shall not be calculated in such a manner as to include any rate equalization surcharge. However, without regard to the plan to be developed or its implementation, producer commissions paid by the corporation for each account, other than the quota share primary program, shall remain fixed as to percentage, effective rate, calculation, and payment method until January 1, 2004.~~

10. ~~By January 1, 2004,~~ The corporation shall provide ~~develop~~ a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.

(e) If coverage in an account is deactivated pursuant to paragraph (f), coverage through the corporation shall be reactivated by order of the office only under one of the following circumstances:

1. If the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the market assistance plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any market assistance plan

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2253 application that is rejected because an individual risk is so  
2254 hazardous as to be uninsurable using the criteria specified in  
2255 subparagraph (c)8. shall not be included in the minimum  
2256 percentage calculation provided herein. In the event that there  
2257 is a legal or administrative challenge to a determination by the  
2258 office that the conditions of this subparagraph have been met for  
2259 eligibility for coverage in the corporation, any eligible risk  
2260 may obtain coverage during the pendency of such challenge.

2261 2. In response to a state of emergency declared by the  
2262 Governor under s. 252.36, the office may activate coverage by  
2263 order for the period of the emergency upon a finding by the  
2264 office that the emergency significantly affects the availability  
2265 of residential property insurance.

2266 (f)1. The corporation shall file with the office quarterly  
2267 statements of financial condition, an annual statement of  
2268 financial condition, and audited financial statements in the  
2269 manner prescribed by law. In addition, the corporation shall  
2270 report to the office monthly on the types, premium, exposure, and  
2271 distribution by county of its policies in force, and shall submit  
2272 other reports as the office requires to carry out its oversight  
2273 of the corporation.

2274 2. The activities of the corporation shall be reviewed at  
2275 least annually by the office to determine whether coverage shall  
2276 be deactivated in an account on the basis that the conditions  
2277 giving rise to its activation no longer exist.

2278 (g)1. The corporation shall certify to the office its needs  
2279 for annual assessments as to a particular calendar year, and for  
2280 any interim assessments that it deems to be necessary to sustain  
2281 operations as to a particular year pending the receipt of annual

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assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government.



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2311 Revenue bonds under this subparagraph may not be issued until  
2312 validated pursuant to chapter 75, unless a state of emergency is  
2313 declared by executive order or proclamation of the Governor  
2314 pursuant to s. 252.36 making such findings as are necessary to  
2315 determine that it is in the best interests of, and necessary for,  
2316 the protection of the public health, safety, and general welfare  
2317 of residents of this state and declaring it an essential public  
2318 purpose to permit certain municipalities or counties to issue  
2319 such bonds as will permit relief to claimants and policyholders  
2320 of the corporation. Any such unit of local government may enter  
2321 into such contracts with the corporation and with any other  
2322 entity created pursuant to this subsection as are necessary to  
2323 carry out this paragraph. Any bonds issued under this  
2324 subparagraph shall be payable from and secured by moneys received  
2325 by the corporation from emergency assessments under sub-  
2326 subparagraph (b)3.d., and assigned and pledged to or on behalf of  
2327 the unit of local government for the benefit of the holders of  
2328 such bonds. The funds, credit, property, and taxing power of the  
2329 state or of the unit of local government shall not be pledged for  
2330 the payment of such bonds. If any of the bonds remain unsold 60  
2331 days after issuance, the office shall require all insurers  
2332 subject to assessment to purchase the bonds, which shall be  
2333 treated as admitted assets; each insurer shall be required to  
2334 purchase that percentage of the unsold portion of the bond issue  
2335 that equals the insurer's relative share of assessment liability  
2336 under this subsection. An insurer shall not be required to  
2337 purchase the bonds to the extent that the office determines that  
2338 the purchase would endanger or impair the solvency of the  
2339 insurer.

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2340           3.a. The corporation shall adopt one or more programs  
2341 subject to approval by the office for the reduction of both new  
2342 and renewal writings in the corporation. Any program the  
2343 corporation adopts for the payment of bonuses to an insurer for  
2344 each risk the insurer removes from the corporation shall comply  
2345 with s. 627.3511(2) and may not exceed the amount referenced in  
2346 s. 627.3511(2) for each risk removed. The corporation may  
2347 consider any prudent and not unfairly discriminatory approach to  
2348 reducing corporation writings, and may adopt a credit against  
2349 assessment liability or other liability that provides an  
2350 incentive for insurers to take risks out of the corporation and  
2351 to keep risks out of the corporation by maintaining or increasing  
2352 voluntary writings in counties or areas in which corporation  
2353 risks are highly concentrated and a program to provide a formula  
2354 under which an insurer voluntarily taking risks out of the  
2355 corporation by maintaining or increasing voluntary writings will  
2356 be relieved wholly or partially from assessments under sub-  
2357 subparagraphs (b)3.a. and b. When the corporation enters into a  
2358 contractual agreement for a take-out plan, the producing agent of  
2359 record of the corporation policy is entitled to retain any  
2360 unearned commission on such policy, and the insurer shall either:  
2361           (I) Pay to the producing agent of record of the policy, for  
2362 the first year, an amount which is the greater of the insurer's  
2363 usual and customary commission for the type of policy written or  
2364 a policy fee equal to the usual and customary commission of the  
2365 corporation; or  
2366           (II) Offer to allow the producing agent of record of the  
2367 policy to continue servicing the policy for a period of not less  
2368 than 1 year and offer to pay the agent the insurer's usual and

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2369 customary commission for the type of policy written. If the  
2370 producing agent is unwilling or unable to accept appointment by  
2371 the new insurer, the new insurer shall pay the agent in  
2372 accordance with sub-sub-subparagraph (I).

2373       b. Any credit or exemption from regular assessments adopted  
2374 under this subparagraph shall last no longer than the 3 years  
2375 following the cancellation or expiration of the policy by the  
2376 corporation. With the approval of the office, the board may  
2377 extend such credits for an additional year if the insurer  
2378 guarantees an additional year of renewability for all policies  
2379 removed from the corporation, or for 2 additional years if the  
2380 insurer guarantees 2 additional years of renewability for all  
2381 policies so removed.

2382       c. There shall be no credit, limitation, exemption, or  
2383 deferment from emergency assessments to be collected from  
2384 policyholders pursuant to sub-subparagraph (b)3.d.

2385       4. The plan shall provide for the deferment, in whole or in  
2386 part, of the assessment of an assessable insurer, other than an  
2387 emergency assessment collected from policyholders pursuant to  
2388 sub-subparagraph (b)3.d., if the office finds that payment of the  
2389 assessment would endanger or impair the solvency of the insurer.  
2390 In the event an assessment against an assessable insurer is  
2391 deferred in whole or in part, the amount by which such assessment  
2392 is deferred may be assessed against the other assessable insurers  
2393 in a manner consistent with the basis for assessments set forth  
2394 in paragraph (b).

2395       (h) Nothing in this subsection shall be construed to  
2396 preclude the issuance of residential property insurance coverage  
2397 pursuant to part VIII of chapter 626.

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(i) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any assessable insurer or its agents or employees, the corporation or its agents or employees, members of the board of governors or their respective designees at a board meeting, corporation committee members, or the office or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to:

1. Any of the foregoing persons or entities for any willful tort;

2. The corporation or its producing agents for breach of any contract or agreement pertaining to insurance coverage;

3. The corporation with respect to issuance or payment of debt; or

4. Any assessable insurer with respect to any action to enforce an assessable insurer's obligations to the corporation under this subsection.

(j) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or

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2427 agencies outside state government. Bonds and other debt  
2428 obligations issued by or on behalf of the corporation are not to  
2429 be considered "state bonds" within the meaning of s. 215.58(8).  
2430 The corporation is not subject to the procurement provisions of  
2431 chapter 287, and policies and decisions of the corporation  
2432 relating to incurring debt, levying of assessments and the sale,  
2433 issuance, continuation, terms and claims under corporation  
2434 policies, and all services relating thereto, are not subject to  
2435 the provisions of chapter 120. The corporation is not required to  
2436 obtain or to hold a certificate of authority issued by the  
2437 office, nor is it required to participate as a member insurer of  
2438 the Florida Insurance Guaranty Association. However, the  
2439 corporation is required to pay, in the same manner as an  
2440 authorized insurer, assessments pledged by the Florida Insurance  
2441 Guaranty Association to secure bonds issued or other indebtedness  
2442 incurred to pay covered claims arising from insurer insolvencies  
2443 caused by, or proximately related to, hurricane losses. It is the  
2444 intent of the Legislature that the tax exemptions provided in  
2445 this paragraph will augment the financial resources of the  
2446 corporation to better enable the corporation to fulfill its  
2447 public purposes. Any bonds issued by the corporation, their  
2448 transfer, and the income therefrom, including any profit made on  
2449 the sale thereof, shall at all times be free from taxation of  
2450 every kind by the state and any political subdivision or local  
2451 unit or other instrumentality thereof; however, this exemption  
2452 does not apply to any tax imposed by chapter 220 on interest,  
2453 income, or profits on debt obligations owned by corporations  
2454 other than the corporation.

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(k) Upon a determination by the office that the conditions giving rise to the establishment and activation of the corporation no longer exist, the corporation is dissolved. Upon dissolution, the assets of the corporation shall be applied first to pay all debts, liabilities, and obligations of the corporation, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the corporation shall become property of the state and shall be deposited in the Florida Hurricane Catastrophe Fund. However, no dissolution shall take effect as long as the corporation has bonds or other financial obligations outstanding unless adequate provision has been made for the payment of the bonds or other financial obligations pursuant to the documents authorizing the issuance of the bonds or other financial obligations.

(l)1. Effective July 1, 2002, policies of the Residential Property and Casualty Joint Underwriting Association shall become policies of the corporation. All obligations, rights, assets and liabilities of the Residential Property and Casualty Joint Underwriting Association, including bonds, note and debt obligations, and the financing documents pertaining to them become those of the corporation as of July 1, 2002. The corporation is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

2. Effective July 1, 2002, policies of the Florida Windstorm Underwriting Association are transferred to the corporation and shall become policies of the corporation. All obligations, rights, assets, and liabilities of the Florida

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2484 Windstorm Underwriting Association, including bonds, note and  
2485 debt obligations, and the financing documents pertaining to them  
2486 are transferred to and assumed by the corporation on July 1,  
2487 2002. The corporation is not required to issue endorsement or  
2488 certificates of assumption to insureds during the remaining term  
2489 of in-force transferred policies.

2490 3. The Florida Windstorm Underwriting Association and the  
2491 Residential Property and Casualty Joint Underwriting Association  
2492 shall take all actions as may be proper to further evidence the  
2493 transfers and shall provide the documents and instruments of  
2494 further assurance as may reasonably be requested by the  
2495 corporation for that purpose. The corporation shall execute  
2496 assumptions and instruments as the trustees or other parties to  
2497 the financing documents of the Florida Windstorm Underwriting  
2498 Association or the Residential Property and Casualty Joint  
2499 Underwriting Association may reasonably request to further  
2500 evidence the transfers and assumptions, which transfers and  
2501 assumptions, however, are effective on the date provided under  
2502 this paragraph whether or not, and regardless of the date on  
2503 which, the assumptions or instruments are executed by the  
2504 corporation. Subject to the relevant financing documents  
2505 pertaining to their outstanding bonds, notes, indebtedness, or  
2506 other financing obligations, the moneys, investments,  
2507 receivables, choses in action, and other intangibles of the  
2508 Florida Windstorm Underwriting Association shall be credited to  
2509 the high-risk account of the corporation, and those of the  
2510 personal lines residential coverage account and the commercial  
2511 lines residential coverage account of the Residential Property  
2512 and Casualty Joint Underwriting Association shall be credited to

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the personal lines account and the commercial lines account, respectively, of the corporation.

~~4. Effective July 1, 2002, a new applicant for property insurance coverage who would otherwise have been eligible for coverage in the Florida Windstorm Underwriting Association is eligible for coverage from the corporation as provided in this subsection.~~

4.5. The transfer of all policies, obligations, rights, assets, and liabilities from the Florida Windstorm Underwriting Association to the corporation and the renaming of the Residential Property and Casualty Joint Underwriting Association as the corporation shall in no way affect the coverage with respect to covered policies as defined in s. 215.555(2)(c) provided to these entities by the Florida Hurricane Catastrophe Fund. The coverage provided by the Florida Hurricane Catastrophe Fund to the Florida Windstorm Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter shall be redesignated as coverage for the high-risk account of the corporation. Notwithstanding any other provision of law, the coverage provided by the Florida Hurricane Catastrophe Fund to the Residential Property and Casualty Joint Underwriting Association based on its exposures as of June 30, 2002, and each June 30 thereafter shall be transferred to the personal lines account and the commercial lines account of the corporation. Notwithstanding any other provision of law, the high-risk account shall be treated, for all Florida Hurricane Catastrophe Fund purposes, as if it were a separate participating insurer with its own exposures, reimbursement premium, and loss reimbursement. Likewise, the personal lines and commercial lines accounts shall



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2542 be viewed together, for all Florida Hurricane Catastrophe Fund  
2543 purposes, as if the two accounts were one and represent a single,  
2544 separate participating insurer with its own exposures,  
2545 reimbursement premium, and loss reimbursement. The coverage  
2546 provided by the Florida Hurricane Catastrophe Fund to the  
2547 corporation shall constitute and operate as a full transfer of  
2548 coverage from the Florida Windstorm Underwriting Association and  
2549 Residential Property and Casualty Joint Underwriting to the  
2550 corporation.

2551 (m) Notwithstanding any other provision of law:

2552 1. The pledge or sale of, the lien upon, and the security  
2553 interest in any rights, revenues, or other assets of the  
2554 corporation created or purported to be created pursuant to any  
2555 financing documents to secure any bonds or other indebtedness of  
2556 the corporation shall be and remain valid and enforceable,  
2557 notwithstanding the commencement of and during the continuation  
2558 of, and after, any rehabilitation, insolvency, liquidation,  
2559 bankruptcy, receivership, conservatorship, reorganization, or  
2560 similar proceeding against the corporation under the laws of this  
2561 state.

2562 2. No such proceeding shall relieve the corporation of its  
2563 obligation, or otherwise affect its ability to perform its  
2564 obligation, to continue to collect, or levy and collect,  
2565 assessments, market equalization or other surcharges under  
2566 subparagraph (c)10., or any other rights, revenues, or other  
2567 assets of the corporation pledged pursuant to any financing  
2568 documents.

2569 3. Each such pledge or sale of, lien upon, and security  
2570 interest in, including the priority of such pledge, lien, or

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2571 security interest, any such assessments, market equalization or  
2572 other surcharges, or other rights, revenues, or other assets  
2573 which are collected, or levied and collected, after the  
2574 commencement of and during the pendency of, or after, any such  
2575 proceeding shall continue unaffected by such proceeding. As used  
2576 in this subsection, the term "financing documents" means any  
2577 agreement or agreements, instrument or instruments, or other  
2578 document or documents now existing or hereafter created  
2579 evidencing any bonds or other indebtedness of the corporation or  
2580 pursuant to which any such bonds or other indebtedness has been  
2581 or may be issued and pursuant to which any rights, revenues, or  
2582 other assets of the corporation are pledged or sold to secure the  
2583 repayment of such bonds or indebtedness, together with the  
2584 payment of interest on such bonds or such indebtedness, or the  
2585 payment of any other obligation or financial product, as defined  
2586 in the plan of operation of the corporation related to such bonds  
2587 or indebtedness.

2588 4. Any such pledge or sale of assessments, revenues,  
2589 contract rights, or other rights or assets of the corporation  
2590 shall constitute a lien and security interest, or sale, as the  
2591 case may be, that is immediately effective and attaches to such  
2592 assessments, revenues, or contract rights or other rights or  
2593 assets, whether or not imposed or collected at the time the  
2594 pledge or sale is made. Any such pledge or sale is effective,  
2595 valid, binding, and enforceable against the corporation or other  
2596 entity making such pledge or sale, and valid and binding against  
2597 and superior to any competing claims or obligations owed to any  
2598 other person or entity, including policyholders in this state,  
2599 asserting rights in any such assessments, revenues, or contract

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rights or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

(n)1. The following records of the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files.

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided for herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered "active" while the investigation is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

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2628 e. Proprietary information licensed to the corporation  
2629 under contract and the contract provides for the confidentiality  
2630 of such proprietary information.

2631 f. All information relating to the medical condition or  
2632 medical status of a corporation employee which is not relevant to  
2633 the employee's capacity to perform his or her duties, except as  
2634 otherwise provided in this paragraph. Information which is exempt  
2635 shall include, but is not limited to, information relating to  
2636 workers' compensation, insurance benefits, and retirement or  
2637 disability benefits.

2638 g. Upon an employee's entrance into the employee assistance  
2639 program, a program to assist any employee who has a behavioral or  
2640 medical disorder, substance abuse problem, or emotional  
2641 difficulty which affects the employee's job performance, all  
2642 records relative to that participation shall be confidential and  
2643 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
2644 of the State Constitution, except as otherwise provided in s.  
2645 112.0455(11).

2646 h. Information relating to negotiations for financing,  
2647 reinsurance, depopulation, or contractual services, until the  
2648 conclusion of the negotiations.

2649 i. Minutes of closed meetings regarding underwriting files,  
2650 and minutes of closed meetings regarding an open claims file  
2651 until termination of all litigation and settlement of all claims  
2652 with regard to that claim, except that information otherwise  
2653 confidential or exempt by law will be redacted.

2654  
2655 When an authorized insurer is considering underwriting a risk  
2656 insured by the corporation, relevant underwriting files and

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confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. When a file is transferred to an insurer that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff of and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the corporation or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to licensed general lines insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

2. Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at

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any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(b)-(d), the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

(o) It is the intent of the Legislature that the amendments to this subsection enacted in 2002 should, over time, reduce the probable maximum windstorm losses in the residual markets and should reduce the potential assessments to be levied on property insurers and policyholders statewide. In furtherance of this intent:

1. The board shall, on or before February 1 of each year, provide a report to the President of the Senate and the Speaker of the House of Representatives showing the reduction or increase in the 100-year probable maximum loss attributable to wind-only coverages and the quota share program under this subsection combined, as compared to the benchmark 100-year probable maximum loss of the Florida Windstorm Underwriting Association. For purposes of this paragraph, the benchmark 100-year probable maximum loss of the Florida Windstorm Underwriting Association shall be the calculation dated February 2001 and based on November 30, 2000, exposures. In order to ensure comparability of data, the board shall use the same methods for calculating its probable maximum loss as were used to calculate the benchmark probable maximum loss. The reduction or increase in probable

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2714 maximum loss shall be calculated without taking into account the  
2715 probable maximum loss attributable to the nonhomestead account.

2716 2. Beginning February 1, 2013 ~~2007~~, if the report under  
2717 subparagraph 1. for any year indicates that the 100-year probable  
2718 maximum loss attributable to wind-only coverages and the quota  
2719 share program combined does not reflect a reduction of at least  
2720 25 percent from the benchmark, the board shall reduce the  
2721 boundaries of the high-risk area eligible for wind-only coverages  
2722 under this subsection in a manner calculated to reduce such  
2723 probable maximum loss to an amount at least 25 percent below the  
2724 benchmark.

2725 3. Beginning February 1, 2018 ~~2012~~, if the report under  
2726 subparagraph 1. for any year indicates that the 100-year probable  
2727 maximum loss attributable to wind-only coverages and the quota  
2728 share program combined does not reflect a reduction of at least  
2729 50 percent from the benchmark, the boundaries of the high-risk  
2730 area eligible for wind-only coverages under this subsection shall  
2731 be reduced by the elimination of any area that is not seaward of  
2732 a line 1,000 feet inland from the Intracoastal Waterway.

2733 (p) In enacting the provisions of this section, the  
2734 Legislature recognizes that both the Florida Windstorm  
2735 Underwriting Association and the Residential Property and  
2736 Casualty Joint Underwriting Association have entered into  
2737 financing arrangements that obligate each entity to service its  
2738 debts and maintain the capacity to repay funds secured under  
2739 these financing arrangements. It is the intent of the Legislature  
2740 that nothing in this section be construed to compromise,  
2741 diminish, or interfere with the rights of creditors under such  
2742 financing arrangements. It is further the intent of the

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2743 Legislature to preserve the obligations of the Florida Windstorm  
2744 Underwriting Association and Residential Property and Casualty  
2745 Joint Underwriting Association with regard to outstanding  
2746 financing arrangements, with such obligations passing entirely  
2747 and unchanged to the corporation and, specifically, to the  
2748 applicable account of the corporation. So long as any bonds,  
2749 notes, indebtedness, or other financing obligations of the  
2750 Florida Windstorm Underwriting Association or the Residential  
2751 Property and Casualty Joint Underwriting Association are  
2752 outstanding, under the terms of the financing documents  
2753 pertaining to them, the governing board of the corporation shall  
2754 have and shall exercise the authority to levy, charge, collect,  
2755 and receive all premiums, assessments, surcharges, charges,  
2756 revenues, and receipts that the associations had authority to  
2757 levy, charge, collect, or receive under the provisions of  
2758 subsection (2) and this subsection, respectively, as they existed  
2759 on January 1, 2002, to provide moneys, without exercise of the  
2760 authority provided by this subsection, in at least the amounts,  
2761 and by the times, as would be provided under those former  
2762 provisions of subsection (2) or this subsection, respectively, so  
2763 that the value, amount, and collectability of any assets,  
2764 revenues, or revenue source pledged or committed to, or any lien  
2765 thereon securing such outstanding bonds, notes, indebtedness, or  
2766 other financing obligations will not be diminished, impaired, or  
2767 adversely affected by the amendments made by this act and to  
2768 permit compliance with all provisions of financing documents  
2769 pertaining to such bonds, notes, indebtedness, or other financing  
2770 obligations, or the security or credit enhancement for them, and  
2771 any reference in this subsection to bonds, notes, indebtedness,



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2772 financing obligations, or similar obligations, of the corporation  
2773 shall include like instruments or contracts of the Florida  
2774 Windstorm Underwriting Association and the Residential Property  
2775 and Casualty Joint Underwriting Association to the extent not  
2776 inconsistent with the provisions of the financing documents  
2777 pertaining to them.

2778 (q) The corporation shall not require the securing of flood  
2779 insurance as a condition of coverage if the insured or applicant  
2780 executes a form approved by the office affirming that flood  
2781 insurance is not provided by the corporation and that if flood  
2782 insurance is not secured by the applicant or insured in addition  
2783 to coverage by the corporation, the risk will not be covered for  
2784 flood damage. A corporation policyholder electing not to secure  
2785 flood insurance and executing a form as provided herein making a  
2786 claim for water damage against the corporation shall have the  
2787 burden of proving the damage was not caused by flooding.  
2788 Notwithstanding other provisions of this subsection, the  
2789 corporation may deny coverage to an applicant or insured who  
2790 refuses to execute the form described herein.

2791 (r) A salaried employee of the corporation who performs  
2792 policy administration services subsequent to the effectuation of  
2793 a corporation policy is not required to be licensed as an agent  
2794 under the provisions of s. 626.112.

2795 (s) The transition to homestead and nonhomestead accounts  
2796 shall begin on October 1, 2006. A policy issued on or after that  
2797 date shall be issued in the applicable homestead account or the  
2798 nonhomestead account, based upon whether the property constitutes  
2799 homestead property as provided in subparagraph (b)2. A policy in  
2800 effect on October 1, 2006, shall be placed in the applicable

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2801 homestead account or the nonhomestead account, based upon whether  
2802 the property constitutes homestead property as provided in  
2803 subparagraph (b)2., upon the first renewal of such policy after  
2804 October 1, 2006.

2805 (t) Any employee of the corporation whose positions are  
2806 managerial, policy making, or professional in nature and all  
2807 members of the corporation's board of governors shall comply with  
2808 the Code of Ethics for public officers and employers found in ss.  
2809 112.311-112.326.

2810 (u) Any employee of the corporation shall notify the  
2811 Division of Insurance Fraud within 48 hours of having information  
2812 that would lead a reasonable person to suspect that fraud may  
2813 have been committed by any employee of the corporation.

2814 Section 11. Subsection (3) of section 627.4035, Florida  
2815 Statutes, is amended to read:

2816 627.4035 Cash payment of premiums; claims.--

2817 (3) All payments of claims made in this state under any  
2818 contract of insurance shall be paid:

2819 (a) In cash consisting of coins, currency, checks, drafts,  
2820 or money orders and, if by check or draft, shall be in such form  
2821 as will comply with the standards for cash items adopted by the  
2822 Federal Reserve System to facilitate the sorting, routing, and  
2823 mechanized processing of such items; or

2824 (b) If authorized in writing by the recipient or the  
2825 recipient's representative, by debit card or any other form of  
2826 electronic transfer. Any fees or costs to be charged against the  
2827 recipient must be disclosed in writing to the recipient or the  
2828 recipient's representative at the time of written authorization.

2829 However, the written authorization requirement may be waived by

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the recipient or the recipient's representative if the insurer verifies the identity of the insured or the insured's recipient, does not charge a fee for the transaction, and in the event the funds are misdirected, the insurer would remain liable for the payment of the claim.

Section 12. Subsection (2), subsection (3) of section 627.7011, Florida Statutes, are amended to read:

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.--

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the dwelling is deemed to include the law and ordinance coverage limited to 25 percent of the dwelling ~~limit coverage specified in paragraph (1)(b)~~. The rejection or selection of alternative coverage shall be made on a form approved by the office. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews, insures, extends, changes, supersedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation

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of this code, but does not affect the coverage provided under the policy.

(3) In the event of a loss for which a dwelling ~~or personal property~~ is insured on the basis of replacement costs, the insurer shall pay the replacement cost without reservation or holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling ~~or property~~.

(4) Insurers shall issue separate checks for living expenses, contents, and casualty proceeds. Checks for living expenses and contents should be issued directly to the policyholder.

Section 13. Section 627.7019, Florida Statutes, is created to read:

627.7019 Standardization of requirements applicable to insurers after natural disasters.--

(1) The commission shall adopt, pursuant to s. 120.54(1)-(3), standardized requirements that may be applied to insurers as a consequence of a hurricane or other natural disaster. The rules shall address the following areas:

(a) Claims reporting requirements.

(b) Grace periods for payment of premiums and performance of other duties by insureds.

(c) Temporary postponement of cancellations and nonrenewals.

(2) The rules adopted pursuant to this section shall require the office to issue an order within 72 hours after the occurrence of a hurricane or other natural disaster specifying, by line of insurance, which of the standardized requirements apply, the geographic areas in which they apply, the time at which

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applicability commences, and the time at which applicability terminates.

(3) Neither the commission nor the office has the power to adopt an emergency rule under s. 120.54(4) in conflict with any provision of the rules adopted under this section.

(4) The commission shall initiate rulemaking under this section no later than June 1, 2006.

Section 14. Paragraph (a) of subsection (1), paragraph (d) of subsection (2), and subsection (3) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.--

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

a. Prior to adjudication of insolvency and arising within 30 days after the determination of insolvency;

b. Before the policy expiration date if less than 30 days after the determination; or

c. Before the insured replaces the policy or causes its cancellation, if she or he does so within 30 days of the determination.

2.a. The obligation under subparagraph 1. shall include only that amount of each covered claim which is in excess of \$100 and is less than \$500,000 ~~\$300,000~~, except with respect to policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential units within the association, the obligation shall include that amount of each covered property insurance claim which is less than \$100,000 multiplied by the

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number of condominium units or other residential units; however, as to homeowners' associations, this sub-subparagraph ~~subparagraph~~ applies only to claims for damage or loss to residential units and structures attached to residential units.

b. Notwithstanding sub-subparagraph a., the association has no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

3. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(2) The association may:

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this part. Additionally, the association may enter into such contracts with a municipality or county or such legal entity created pursuant to s. 163.01(7)(g) as are necessary in order for the municipality or county or such legal entity to issue bonds under s. 631.695. In connection with the issuance of any such bonds and the entering into of any such necessary contracts, the association may agree to such terms and conditions as the association deems necessary

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and proper.

(3) (a) To the extent necessary to secure the funds for the respective accounts for the payment of covered claims, ~~and also~~ to pay the reasonable costs to administer the same, and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c), or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy assessments in the proportion that each insurer's net direct written premiums in this state in the classes protected by the account bears to the total of said net direct written premiums received in this state by all such insurers for the preceding calendar year for the kinds of insurance included within such account. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan. Each insurer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. Every assessment shall be made as a uniform percentage applicable to the net direct written premiums of each insurer in the kinds of insurance included within the account in which the assessment is made. The assessments levied against any insurer shall not exceed in any one year more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account during the calendar year next preceding the date of such assessments.

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2974 (b) If sufficient funds from such assessments, together  
2975 with funds previously raised, are not available in any one year  
2976 in the respective account to make all the payments or  
2977 reimbursements then owing to insurers, the funds available shall  
2978 be prorated and the unpaid portion shall be paid as soon  
2979 thereafter as funds become available.

2980 (c) Assessments shall be included as an appropriate factor  
2981 in the making of rates.

2982 (d) No state funds of any kind shall be allocated or paid  
2983 to said association or any of its accounts.

2984 (e)1.a. In addition to assessments otherwise authorized in  
2985 paragraph (a) and to the extent necessary to secure the funds for  
2986 the account specified in s. 631.55(2)(c), or to retire  
2987 indebtedness, including, without limitation, the principal,  
2988 redemption premium, if any, and interest on, and related costs of  
2989 issuance of, bonds issued under s. 631.695, and the funding of  
2990 any reserves and other payments required under the bond  
2991 resolution or trust indenture pursuant to which such bonds have  
2992 been issued, the office, upon certification of the board of  
2993 directors, shall levy emergency assessments upon insurers holding  
2994 a certificate of authority as set forth in this paragraph. The  
2995 emergency assessments payable under this paragraph by any insurer  
2996 shall not exceed in any 1 year more than 2 percent of that  
2997 insurer's direct written premiums, net of refunds, in this state  
2998 during the preceding calendar year for the kinds of insurance  
2999 within the account specified in s. 631.55(2)(c).

3000 b. Any emergency assessments authorized under this  
3001 paragraph shall be levied by the office upon insurers referred to  
3002 in sub-subparagraph a., upon certification as to the need



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therefor by the board of directors, in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2 percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of such bonds. The emergency assessments provided for in this paragraph are hereby assigned and pledged to the municipality or county or legal entity issuing bonds under s. 631.695, for the benefit of the holders of such bonds, in order to enable such municipality or county or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent that bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds shall thereupon be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

c. Emergency assessments under this paragraph may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after

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an emergency assessment is levied, and subsequent installments being due not later than the end of each succeeding month.

d. In the event emergency assessments are imposed, the report required by s. 631.695(3) shall include an analysis of the revenues generated from the emergency assessments imposed under this subsection.

(e) If emergency assessments are imposed, the references to s. 631.57(1)(b), s. 631.695(2) and s. 631.965(7) to assessments levied under s. 631.57(3)(a) shall include emergency assessments levied under this subparagraph.

2. In order to assure that insurers paying emergency assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall make a rate filing for coverage included within the account specified in s. 631.55(2)(c) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.

3. An annual assessment under this paragraph shall continue until the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds, the proceeds of which were used to refund bonds issued pursuant to s.631.695,

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3059 unless adequate provision has been made for the payment of the  
3060 bonds under the documents authorizing the issuance of such bonds.

3061 4. Emergency assessments under this paragraph are not  
3062 premium and are not subject to the premium tax, to any fees, or  
3063 to any commissions. An insurer is liable for all emergency  
3064 assessments that it collects and must treat the failure of an  
3065 insured to pay an emergency assessment as a failure to pay the  
3066 premium. An insurer is not liable for uncollectible emergency  
3067 assessments.

3068 Section 15. Section 631.695, Florida Statutes, is created  
3069 to read:

3070 631.695 Revenue bond issuance through counties or  
3071 municipalities.--

3072 (1) The Legislature finds:

3073 (a) The potential for widespread and massive damage to  
3074 persons and property caused by hurricanes making landfall in this  
3075 state can generate insurance claims of such a number as to render  
3076 numerous insurers operating within this state insolvent and  
3077 therefore unable to satisfy covered claims.

3078 (b) The inability of insureds within this state to receive  
3079 payment of covered claims or to timely receive such payment  
3080 creates financial and other hardships for such insureds and  
3081 places undue burdens on the state, the affected units of local  
3082 government, and the community at large.

3083 (c) In addition, the failure of insurers to pay covered  
3084 claims or to timely pay such claims due to the insolvency of such  
3085 insurers can undermine the public's confidence in insurers  
3086 operating within this state, thereby adversely affecting the  
3087 stability of the insurance industry in this state.

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3088        (d) The state has previously taken action to address these  
3089 problems by adopting the Florida Insurance Guaranty Association  
3090 Act, which, among other things, provides a mechanism for the  
3091 payment of covered claims under certain insurance policies to  
3092 avoid excessive delay in payment and to avoid financial loss to  
3093 claimants or policyholders because of the insolvency of an  
3094 insurer.

3095        (e) In the wake of the unprecedented destruction caused by  
3096 various hurricanes that have made landfall in this state, the  
3097 resultant covered claims, and the number of insurers rendered  
3098 insolvent thereby, it is evident that alternative programs must  
3099 be developed to allow the Florida Insurance Guaranty Association,  
3100 Inc., to more expeditiously and effectively provide for the  
3101 payment of covered claims.

3102        (f) It is therefore determined to be in the best interests  
3103 of, and necessary for, the protection of the public health,  
3104 safety, and general welfare of the residents of this state, and  
3105 for the protection and preservation of the economic stability of  
3106 insurers operating in this state, and it is declared to be an  
3107 essential public purpose, to permit certain municipalities and  
3108 counties to take such actions as will provide relief to claimants  
3109 and policyholders having covered claims against insolvent  
3110 insurers operating in this state by expediting the handling and  
3111 payment of covered claims.

3112        (g) To achieve the foregoing purposes, it is proper to  
3113 authorize municipalities and counties of this state substantially  
3114 affected by the landfall of a category 1 or greater hurricane to  
3115 issue bonds to assist the Florida Insurance Guaranty Association,  
3116 Inc., in expediting the handling and payment of covered claims of

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3117 insolvent insurers.

3118 (h) In order to avoid the needless and indiscriminate  
3119 proliferation, duplication, and fragmentation of such assistance  
3120 programs, it is in the best interests of the residents of this  
3121 state to authorize municipalities and counties severely affected  
3122 by a category 1 or greater hurricane to provide for the payment  
3123 of covered claims beyond their territorial limits in the  
3124 implementation of such programs.

3125 (i) It is a paramount public purpose for municipalities and  
3126 counties substantially affected by the landfall of a category 1  
3127 or greater hurricane to be able to issue bonds for the purposes  
3128 described in this section. Such issuance shall provide assistance  
3129 to residents of those municipalities and counties as well as to  
3130 other residents of this state.

3131 (2) The governing body of any municipality or county the  
3132 residents of which have been substantially affected by a category  
3133 1 or greater hurricane may issue bonds to fund an assistance  
3134 program in conjunction with, and with the consent of, the Florida  
3135 Insurance Guaranty Association, Inc., for the purpose of paying  
3136 claimants' or policyholders' covered claims as defined in s.  
3137 631.54 arising through the insolvency of an insurer, which  
3138 insolvency is determined by the Florida Insurance Guaranty  
3139 Association, Inc., to have been a result of a category 1 or  
3140 greater hurricane, regardless of whether such claimants or  
3141 policyholders are residents of such municipality or county or the  
3142 property to which such claim relates is located within or outside  
3143 the territorial jurisdiction of such municipality or county. The  
3144 power of a municipality or county to issue bonds as described in  
3145 this section is in addition to any powers granted by law and may

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not be abrogated or restricted by any provisions in such municipality's or county's charter. A municipality or county issuing bonds for this purpose shall enter into such contracts with the Florida Insurance Guaranty Association, Inc., or any entity acting on behalf of the Florida Insurance Guaranty Association, Inc., as are necessary to implement the assistance program. Any bonds issued by a municipality or county or combination thereof under this subsection shall be payable from and secured by moneys received by or on behalf of the municipality or county from assessments levied under s. 631.57(3)(a) and assigned and pledged to or on behalf of the municipality or county for the benefit of the holders of such bonds in connection with such assistance program. The funds, credit, property, and taxing power of the state or any municipality or county shall not be pledged for the payment of such bonds.

(3) Bonds may be validated by such municipality or county pursuant to chapter 75. The proceeds of such bonds may be used to pay covered claims of insolvent insurers; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, costs of obtaining credit enhancement or liquidity support, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the association may determine. The term of the bonds may not exceed 30 years.

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3175       (4) The state covenants with holders of bonds of the  
3176 assistance program that the state will not take any action which  
3177 will have a material adverse affect on such holders and will not  
3178 repeal or abrogate the power of the board of directors of the  
3179 association to direct the Office of Insurance Regulation to levy  
3180 the assessments and to collect the proceeds of the revenues  
3181 pledged to the payment of such bonds as long as any such bonds  
3182 remain outstanding unless adequate provision has been made for  
3183 the payment of such bonds pursuant to the documents authorizing  
3184 the issuance of such bonds.

3185       (5) The accomplishment of the authorized purposes of such  
3186 municipality or county under this section is in all respects for  
3187 the benefit of the people of the state, for the increase of their  
3188 commerce and prosperity, and for the improvement of their health  
3189 and living conditions. Such municipality or county, in performing  
3190 essential governmental functions in accomplishing its purposes,  
3191 is not required to pay any taxes or assessments of any kind  
3192 whatsoever upon any property acquired or used by the county or  
3193 municipality for such purposes or upon any revenues at any time  
3194 received by the county or municipality. The bonds, notes, and  
3195 other obligations of such municipality or county, and the  
3196 transfer of and income from such bonds, notes, and other  
3197 obligations, including any profits made on the sale of such  
3198 bonds, notes, and other obligations, are exempt from taxation of  
3199 any kind by the state or by any political subdivision or other  
3200 agency or instrumentality of the state. The exemption granted in  
3201 this subsection is not applicable to any tax imposed by chapter  
3202 220 on interest, income, or profits on debt obligations owned by  
3203 corporations.

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(6) Two or more municipalities or counties the residents of which have been substantially affected by a category 1 or greater hurricane may create a legal entity pursuant to s. 163.01(7)(g) to exercise the powers described in this section as well as those powers granted in s. 163.01(7)(g). Reference in this section to a municipality or county includes such legal entity.

(7) The association shall issue an annual report on the status of the use of bond proceeds as related to insolvencies caused by hurricanes. The report must contain the number and amount of claims paid. The association shall also include an analysis of the revenue generated from the assessment levied under s. 631.57(3)(a) to pay such bonds. The association shall submit a copy of the report to the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer within 90 days after the end of each calendar year in which bonds were outstanding.

Section 16. No provision of s. 631.57 or s. 631.695, Florida Statutes, shall be repealed until such time as the principal, redemption premium, if any, and interest on all bonds issued under s. 631.695, Florida Statutes, payable and secured from assessments levied under s. 631.57(3)(a), Florida Statutes, have been paid in full or adequate provision for such payment has been made in accordance with the bond resolution or trust indenture pursuant to which such bonds were issued.

Section 17. Paragraph (a) of subsection (1) of section 817.234, Florida Statutes, is amended to read:

817.234 False and fraudulent insurance claims.--



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3231 (1)(a) A person commits insurance fraud punishable as  
3232 provided in subsection (11) if that person, with the intent to  
3233 injure, defraud, or deceive any insurer:

3234 1. Presents or causes to be presented any written or oral  
3235 statement as part of, or in support of, a claim for payment or  
3236 other benefit pursuant to an insurance policy or a health  
3237 maintenance organization subscriber or provider contract, knowing  
3238 that such statement contains any false, incomplete, or misleading  
3239 information concerning any fact or thing material to such claim;

3240 2. Prepares or makes any written or oral statement that is  
3241 intended to be presented to any insurer in connection with, or in  
3242 support of, any claim for payment or other benefit pursuant to an  
3243 insurance policy or a health maintenance organization subscriber  
3244 or provider contract, knowing that such statement contains any  
3245 false, incomplete, or misleading information concerning any fact  
3246 or thing material to such claim; or

3247 3.a. Knowingly presents, causes to be presented, or  
3248 prepares or makes with knowledge or belief that it will be  
3249 presented to any insurer, purported insurer, servicing  
3250 corporation, insurance broker, or insurance agent, or any  
3251 employee or agent thereof, any false, incomplete, or misleading  
3252 information or written or oral statement as part of, or in  
3253 support of, an application for the issuance of, or the rating of,  
3254 any insurance policy, or a health maintenance organization  
3255 subscriber or provider contract, including any false declaration  
3256 of homestead status for the purpose of obtaining coverage in a  
3257 homestead account under s. 627.351(6); or

3258 b. Who knowingly conceals information concerning any fact  
3259 material to such application.

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Section 18. Subsection (3) of section 109 of chapter 2000-141, Laws of Florida, is amended to read:

Section 109. The Legislature has reviewed the Florida Building Code that was adopted by action of the Florida Building Commission on February 15, 2000, and that was noticed for rule adoption by reference in Rule 9B-3.047, F.A.C., on February 18, 2000, in the Florida Administrative Weekly on page 731. The Florida Building Commission is directed to continue the process to adopt the code, pursuant to section 120.54(3), Florida Statutes, and to incorporate the following provisions or standards for the State of Florida:

(3) For areas of the state not within the high velocity hurricane zone, the commission shall adopt, pursuant to s. 553.73, Florida Statutes, the wind protection requirements of the American Society of Civil Engineers, Standard 7, 1998 edition as implemented by the International Building Code, 2000 edition, and as modified by the commission in its February 15, 2000, adoption of the Florida Building Code for rule adoption by reference in Rule 9B-3.047, Florida Administrative Code. ~~However, from the eastern border of Franklin County to the Florida-Alabama line, only land within 1 mile of the coast shall be subject to the windborne debris requirements adopted by the commission.~~ The exact location of wind speed lines shall be established by local ordinance, using recognized physical landmarks such as major roads, canals, rivers, and lake shores, wherever possible. Buildings constructed in the windborne debris region must be either designed for internal pressures that may result inside a building when a window or door is broken or a hole is created in its walls or roof by large debris, or be designed with protected

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openings. Except in the high velocity hurricane zone, local governments may not prohibit the option of designing buildings to resist internal pressures.

Section 19. Task Force on Hurricane Mitigation and Hurricane Insurance for Mobile and Manufactured Homes.--

(1) TASK FORCE CREATED.--There is created the Task Force on Hurricane Mitigation and Hurricane Insurance for Mobile and Manufactured Homes.

(2) ADMINISTRATION.--The task force shall be administratively housed within the Office of Insurance Regulation, but shall operate independently of any state officer or agency. The Office of the Insurance Regulation shall provide such administrative support as the task force deems necessary to accomplish its mission and shall provide necessary funding for the task force within its existing resources. The Executive Office of the Governor, the Department of Financial Services, the Office of Insurance Regulation, the Department of Highway Safety and Motor Vehicles, and the Department of Community Affairs shall provide substantive staff support for the task force.

(3) MEMBERSHIP.--The members of the task force shall be appointed as follows:

(a) The Governor shall appoint two members who have expertise in financial matters, one of whom is a representative of the mobile or manufactured home industry and one of whom is a representative of insurance consumers.

(b) The Chief Financial Officer shall appoint two members who have expertise in financial matters, one of whom is a representative of a property insurer writing mobile or manufactured homeowners insurance in Florida, and one of whom is

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3318 a representative of insurance agents.

3319 (c) The President of the Senate shall appoint one member.

3320 (d) The Speaker of the House of Representatives shall  
3321 appoint one member.

3322 (e) The Commissioner of Insurance Regulation or his  
3323 designee shall serve as an ex officio voting member of the task  
3324 force.

3325 (f) The Executive Director of Citizens Property Insurance  
3326 or his designee shall serve as an ex officio voting member of the  
3327 task force.

3328 (g) The Chief Executive Officer of the Federal Alliance for  
3329 Safe Homes, Incorporated or his designee shall serve as an ex  
3330 officio voting member of the task force.

3331  
3332 Members of the task force shall serve without compensation but  
3333 are entitled to receive reimbursement for per diem and travel  
3334 expenses as provided in section 112.061, Florida Statutes.

3335 (4) PURPOSE AND INTENT.--The Legislature recognizes the  
3336 continued availability of hurricane insurance coverage for mobile  
3337 and manufactured home owners in this state is essential to the  
3338 state's economic survival. The Legislature further recognizes  
3339 hurricane mitigation measures and building codes may reduce the  
3340 likelihood or amount of damage to mobile or manufactured homes in  
3341 the event of a hurricane. The Legislature further recognizes  
3342 mobile and manufactured homes provide safe and affordable housing  
3343 to many residents of this state. The purpose of the task force  
3344 is to make recommendations to the legislative and executive  
3345 branches of this state's government relating to the creation and  
3346 maintenance of insurance capacity in the private sector and

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public sector which is sufficient to ensure that all mobile and manufactured home owners in this state are able to obtain appropriate insurance coverage for hurricane losses, and relating to the effectiveness of hurricane mitigation measures for mobile or manufactured homes as further described in this section.

(5) SPECIFIC TASKS.--The task force shall conduct such research and hearings as it deems necessary to achieve the purposes specified in subsection (4) and shall develop information on relevant issues, including, but not limited to, the following issues:

(a) Whether this state currently has sufficient hurricane insurance capacity for mobile and manufactured homes to ensure the continuation of a healthy, competitive marketplace, taking into consideration both private-sector resources and public-sector resources.

(b) Identifying the future demands on this state's hurricane insurance capacity, taking into account population growth, coastal growth, and anticipated future hurricane activity.

(c) Identifying how many mobile or manufactured homes are occupied in this state, how many mobile or manufactured homes are occupied by owners who also own the land to which the unit is attached, the age or average age of mobile or manufactured homes, the location of such homes, and the size of such homes.

(d) The extent to which the growth in insurance on mobile or manufactured homes in Citizens Property Insurance Corporation is attributable to insufficient insurance capacity.

(e) The extent to which the growth trends of Citizens Property Insurance Corporation create long-term problems for

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mobile and manufactured home owners in this state and for other persons and businesses that depend on a viable market.

(f) The extent to which insurance discounts , credits, or other rate differentials or reductions in the hurricane insurance deductible for a mobile or manufactured homeowner who takes mitigative measures would increase hurricane insurance capacity for mobile or manufactured homeowners.

(g) The extent hurricane mitigation enhancements to mobile or manufactured homes decreases the likelihood of damage from a hurricane or decreases the amount of damage from a hurricane.

(h) The extent to which the building codes reduce the likelihood of damage or amount of damage to mobile or manufactured homes.

(6) REPORT AND RECOMMENDATIONS.--By January 1, 2007, the task force shall provide a report containing findings relating to the tasks identified in subsection (5) and recommendations consistent with the purposes of this section and also consistent with such findings. The task force shall submit the report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives. The task force may also submit such interim reports as it deems appropriate.

(7) EXPIRATION.--The task force shall expire at the end of the 2004-2006 legislative biennium.

Section 20. The Office of Insurance Regulation shall, by January 1, 2007, submit a report to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of the Senate and the House of Representatives, and the chairs of the standing committees of the Senate and the House of

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Representatives having jurisdiction over matters relating to property and casualty insurance. In preparing the report, the Office of Insurance Regulation shall consult with the Department of Highway Safety and Motor Vehicles, the Department of Community Affairs, the Florida Building Commission, the Florida Home Builders Association, representatives of the mobile and manufactured home industry, representatives of the property and casualty insurance industry, and any other party the Office of Insurance Regulation determines is appropriate. The report shall include findings and recommendations on the insurability of attached or free standing structures to residential homes, mobile, or manufactured homes, such as carports or pool enclosures; the increase or decrease in insurance costs associated with insuring such structures; the feasibility of insuring such structures; the impact on homeowners of not having insurance coverage for such structures; the ability of mitigation measures relating to such structures to reduce risk and loss; and such other related information as the Office of Insurance Regulation determines is appropriate for the Legislature to consider.

Section 21. (1) The Office of Insurance Regulation shall, by January 15, 2007, submit a report to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of the Senate and the House of Representatives, and the chairs of the standing committees of the Senate and the House of Representatives having jurisdiction over matters relating to property and casualty insurance. The report shall include findings and recommendations on requiring residential property insurers to provide an opportunity for policyholders to decrease

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the monetary amount of a hurricane deductible predicated upon the policyholder demonstrating certifiable and verifiable mitigation measures that reduce hurricane damage. As a part of the report, the office shall address the feasibility of such a requirement and the specific procedures necessary for implementation and include suggested legislation. The report may also include other related information as the office determines is appropriate for the Legislature to consider.

(2) In conducting its research and offering its recommendations for the report the office shall consult with consumers, insurers, builders, wind certification inspectors, organizations dedicated to promoting disaster safety and property loss mitigation, counties and municipalities and state agencies as well as any other entity which the office determines could provide relevant information.

Section 22. This act shall take effect upon becoming a law.